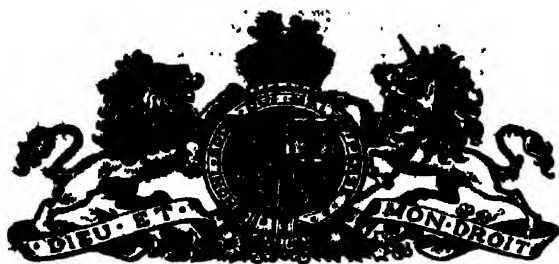


GAZE. of INDIA
MARCH.
1882

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The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 4, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART II.

Notifications by High Court, Comptroller General, &c.

GAZETTE OF INDIA.

From the 1st January 1882, Parts IV and V of the *Gazette of India*, containing the Acts and Bills of the Legislative Council, may be subscribed for separately from the other Parts of the Gazette. The annual subscription for the two Parts will be Rs. 5 per annum, payable in advance. When sent by post, Rs. 2-8 per annum additional will be charged for postage.

Complaints regarding non-receipt of any number of the *Gazette* should be forwarded within a week after the day on which it is due.

Applications for the supply of the *Gazette* on the public service should be addressed to the Home Department.

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Subscription for <i>Gazette</i> and Supplement per annum	15	0	0
Postage	5	8	0
Subscription for Supplement only	6	0	0
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E. J. DEAN.

Publisher, Gazette of India.

NOTICE.

The Office of Superintendent of Government Printing having been removed to No. 166, Dhurrumtollah Street, all communications intended for that Office should be sent to that address.

E. J. DEAN,

Superintendent of Govt. Printing, India.

NOTICE TO MARINERS.

No. 5 of 1882.

HINDOSTAN—WEST COAST.

BOMBAY HARBOUR.

Light-house building on Sunk rock.

Information has been received from the Port Officer, Bombay, that a light-house is in course of construction on the Sunk rock, Bombay harbour. The building is a circular tower, and is intended to be 70 feet high above mean level of lowest ordinary spring tides. It is expected that the masonry will be finished about the middle of March next, but the fixed white light will continue to be shown, as hitherto, from the Inner Light-vessel, until further notice.

Particulars as to the description of the light to be exhibited from the Sunk rock light-house, and the simultaneous changes to be made in the Prongs and Kenery Island lights, will be notified hereafter.

By direction of the Government of India,

A. DUNDAS TAYLOR, *Comdr. (late I.N.),*

Superintendent, Marine Survey of India.

Marine Survey Department.

Calcutta,

The 16th February 1882.

This Notice affects the following:—

BRITISH ADMIRALTY Charts, Nos. 2021, 737, 2736 and 826. Also Sailing Directions, West Coast of Hindostan Pilot (1880), page 161.

INDIAN MARINE SURVEY Charts, Nos. 15 and 1257a. Also Taylor's Sailing Directory, Vol. I, page 379.

If this Notice is received on board-ship, the substance of it should be inserted on the Charts affected by it and introduced into the Sailing Directions to which it relates.

ORDERS BY THE VICE-CHANCELLOR AND SYNDICATE OF THE CALCUTTA UNIVERSITY.

The undermentioned students have passed the Honour Examination in Arts :—
ENGLISH.

FIRST DIVISION.

Mitra, Baradacharan ... Presidency College.

SECOND DIVISION.

In order of Merit.

Majumdar, Jadunnath	... Free Church Institution.
Ghosh, Ishanchandra	... General Assembly's Institution.
" Jogendrachandra	... Presidency College.
Bandyopadhyay, Asutosh	... Free Church Institution.
Chattopadhyay, Gangacharan	... Hughli College.

THIRD DIVISION.

In order of Merit.

Mitra, Lalbihari	... Hughli College.
Majumdar, Nilmadhab	... Ditto.
Ohdidar, Narendranath	... Presidency College.

SANSKRIT.

SECOND DIVISION.

Chakrabarti, Asutosh ... Sanskrit College.

ARABIC.

FIRST DIVISION.

Hushmat Ullah ... Muir Central College.

HISTORY.

SECOND DIVISION.

In order of Merit.

Ghosh, Mahendrakumar	... Dacca College.
Bhawni Das	... Lahore College.
Ghosh, Saradacharan	... Dacca College.

MATHEMATICS.

SECOND DIVISION.

In order of Merit.

Sen, Rajmohan	... Presidency College.
Basu, Kalipada	... Ditto.

THIRD DIVISION.

Chakrabarti, Jadabchandra ... Presidency College.

PHYSICAL SCIENCE.

FIRST DIVISION.

In order of Merit.

Ghosh, Kantibhushan	... Hughli College.
Krishna, Rao Bhatt	... Muir Central College.
Chandia, Aghornath	... Presidency College.
Vinayak Moieswar Kelkar	... Muir Central College.

SECOND DIVISION.

In order of Merit.

Saha, Ramlal	... Patna College.
Sen, Ramlal	... Presidency College.
Kedarnath	... Lahore College
Hari Lakshman, Indrakar	... Muir Central College.

The undermentioned students have passed the examination for the degree of M. A. :—

In alphabetical order.

Basu, Prasannakumar	... Dacca College.
Bhattacharyya, Haridas	.. Sanskrit College. •
" Ramaprasad	... Ditto.
Maitra, Rajendralal	... General Assembly's Institution.
Mukhopadhyay, Upendranath	.. Sanskrit College.
Sen, Dakshinacharan	... Ditto.
Sur, Akshaykumar	. Presidency College.

The undermentioned students have passed the B. L. examination :—

FIRST DIVISION.

In order of Merit.

1 Chattopadhyay, Digambar	... Presidency College.
2 Sinha, Nirmalachandra	... Ditto.

SECOND DIVISION.

In order of Merit.

1	Halder, Kisorilal	...	Hughli College.
2	Laha, Amarchand	...	Dacca College.
3	Sen, Narendranath	...	Presidency College.
4	Datta, Narendrakrishna	...	Ditto.
5	Sarkar, Asutosh	...	Dacca College.
6	Chattopadhyay, Sureshchandra	...	Presidency College.
7	Datta, Mohanimohan	...	Ditto.
8	Mitra, Bankimchandra	...	Ditto.
9	" Nagendrachandra	...	Ditto.
10	{ Sinha, Purnendunaryan	...	Patna College.
	{ Sen, Srinath	...	Presidency College.
12	Mitra, Abinashchandra	...	Ditto.
13	{ Datta, Taraknath	...	Ditto.
	{ Mitra, Gopendrachandra	...	Hughli College.
15	Basu, Puhubihari	...	Presidency College.
16	" Debendrabijay	...	Ditto.
17	Awadh Kisor	...	Patna College.
18	Mukhopadhyay, Hariprasanna	...	Presidency College.
	{ Ray, Kalimohan	...	Patna College.
19	{ Basu, Binyogopal	...	Presidency College.
	{ Nag, Abhiyacharan	...	Ditto.
	{ Tashimuddin Ahmad	...	Ditto.
	{ Mandal, Rameswar	...	Ditto.
23	{ Sarkar, Nandalul	...	Ditto.
	{ Chattopadhyay, Saratchandra	...	Ditto.
26	Bhattacharyya, Maheswar	...	Ditto.
27	{ Ray, Chandranarayan	...	Krishnagar College.
	{ Bhattacharyya, Jugadas	...	Presidency College.
29	Datta, Upendranath	...	Ditto.
30	Chakrabarti, Dwarkanath	...	Ditto.
31	Das, Dhairyyanarayan	...	Ditto.
32	Bandyopadhyay, Bidhubhushan	...	Hughli College.
33	{ Sen, Annalacharan	...	Presidency College.
	{ Mukhopadhyay, Chandrasekhar	...	Ditto.
35	" Kaliprasanna	...	Patna College.
36	Sen, Jadabchandra	...	Dacca College.
37	Mirza, Muhammad Ismail	...	Patna College.
	{ Bandyopadhyay, Mahadeb	...	Presidency College.
38	{ Hati, Banawarilal	...	Ditto.
	{ Das, Kamalanath	...	Dacca College.
	{ De, Ramapati	...	Presidency College.
42	Das, Taraprasanna	...	Dacca College.
43	Dan, Mahendranath	...	Presidency College.
	{ Lahiri, Chandrakanta	...	Ditto.
44	{ Basu, Trailokyanath	...	Ditto.
	{ Ray, Ugrakanta	...	Ditto.
	{ Mukhopadhyay, Purnachandra	...	Muir Central College.
47	{ Ghosh, Jadunath	...	Presidency College.
	{ Datta, Molinimohan	...	Hughli College.
	{ Mukhopadhyay, Krishnadhan	...	Ditto.
51	" Asutosh	...	Ditto.
52	{ Ghosh, Atulechandra	...	Presidency College.
	{ Bandyopadhyay, Kantibhushan	...	Hughli College.
54	Palit, Priyanath	...	Presidency College.
55	Chattopadhyay, Amritlal	...	Ditto.
56	Sen, Sasibhushan	...	Ditto.
57	Goswami, Jadunath	...	Ditto.
58	Pal, Saratchandra	...	Ditto.
59	Das, Rasikchandra	...	Ditto.
60	{ Mukhopadhyay, Ramprasanna	...	Ditto.
	{ Chattopadhyay, Mohanimohan	...	Ditto.
	{ Lahiri, Purnachandra	...	Ditto.
62	{ Kundu, Ramkumar	...	Ditto.
	{ Ghosh, Benodbihari	...	Muir Central College.
65	Nag, Rebatikanta	...	Dacca College.
66	Basu, Jogendranath	...	Presidency College.
67	Pal, Tulshabaran	...	Ditto.

Sd/- H. H. H. H.
21st February 1932.

CHARLES H. TAWNEY,

Registrar

ORDERS BY THE VICE-CHANCELLOR AND SYNDICATE OF THE CALCUTTA UNIVERSITY.

The following changes in the Regulations in Arts and Medicine having been sanctioned by the Senate and approved by His Excellency the Governor General of India in Council, are published for general information.

For the Regulations for the First Examination in Arts, for the degree of Bachelor of Arts, for Honours in Arts, and for the degree of M.A., the following Regulations have been substituted, with effect, as regards the First Examination in Arts, from the 1st of January 1894, and as regards the B. A. and M. A. Examinations, from the 1st of January 1885.

FIRST EXAMINATION IN ARTS.

1. The First Examination in Arts shall commence annually at such time as the Syndicate shall determine (the date to be approximately notified in the Calendar for the year), and shall be held in Calcutta and in such other places* as shall from time to time be appointed by the Syndicate.

2. Any undergraduate of the University may be admitted to this Examination, provided he has prosecuted a regular course of study in any affiliated institution for not less than two academical years after passing the Entrance Examination.†

3. Every candidate for admission shall send his application with a certificate in the form entered in Appendix A, either to the Registrar or to a local officer recognised by the Syndicate. Every such application must reach the office of the Registrar at least thirty days before the date fixed for the commencement of the Examination.

4. A fee of twenty rupees shall be payable by each candidate. No candidate shall be admitted, unless he shall have paid this fee to the Registrar or to the local officer recognised by the Syndicate. A candidate who fails to pass or to present himself for examination shall not be entitled to claim a refund of the fee. A candidate may be admitted to any one or more subsequent First Examinations in Arts on payment of a like fee of twenty rupees on each occasion, provided he produces a certificate from the head of an affiliated institution showing that he has prosecuted a regular course of study for six months since the date of the last examination to which he was admitted.

5. The First Examination in Arts shall be conducted by means of printed papers, the same papers being used at every place at which the Examination is held.

6. At such time as the Syndicate shall determine (the date to be approximately notified in the Calendar for the year), the Syndicate shall publish a list of the candidates who have passed, arranged in three divisions, the first in order of merit, and the second and third in alphabetical order. Every candidate shall on passing receive a certificate in the form entered in Appendix A.

7. At the First Examination in Arts every candidate shall be examined in the following sub-

* The following places have already been appointed:—

Hughli, Berhampore, Kishnaghur, Dacca, Patna, Benares, Agra, Delhi, Bareilly, Ajmere, Lahore, Lucknow, Colombo, Simla, Darjeeling, Sehor, Allahabad, Mussoorie, Cuttack, Chittagong, Jabulpore, Batticaloa, Indore, Midnapore, Rangoon, Baulia, Nowgong, Rangoon, Nagpur.

† The Syndicate have power to make exceptions to this rule in favour of Deputy Inspectors of Schools and Schoolmasters.

jects, and the number of papers in each shall be as follows:—

I.—English	...	Two papers.
II.—A Second Language	...	" "
III.—Mathematics	...	" "
IV.—Elementary Physics	...	" "
V.—History	...	One paper.
VI.—Logic	...	" "

I & II.—LANGUAGES.*

The Second language shall be one of the following languages:—

Greek.	Arabic.
Latin.	Persian.
Sanskrit.	Pali.
Hebrew.	

Any other classical language may be added to this list by the Syndicate. Sentences in each language in which the candidate is examined shall be given for translation into the other language.

The papers in each language shall include questions on Grammar and Idiom.

III.—MATHEMATICS.

- (a) *Arithmetic*.
- (b) *Algebra*—Quadratic equations; theory of quadratic equations and expressions; imaginary expressions; arithmetical, geometrical, and harmonical progressions; permutations and combinations; binomial and exponential theorems.
- (c) *Plane Geometry*.—Simple problems in the geometry of the straight line, triangle, and circle, treated according to modern methods. The more important properties of the parabola and ellipse.
- (d) *Trigonometry*—Methods of measuring angles. Trigonometrical ratios, and the simple relations connecting them. Relations between trigonometrical ratios of angles differing by multiples of right angles. Trigonometrical transformations. Solution of triangles. Properties of triangles. Area of a circle.
- (e) *Logarithms*.—The properties of logarithms. Logarithmic series. The use of logarithmic tables. Proportional parts.

IV.—ELEMENTARY PHYSICS.

- (a) *General Ideas*—Units of measurement, and definitions of mass, force, motion. Laws of motion. Work and energy.—measurement of each. Chief forces of nature. General properties of solids, liquids, and gases. Conditions of equilibrium of a mass acted on by forces. Motions of translation and rotation. Pressure of fluids and gases: measurement of pressure. Equilibrium of floating bodies. Specific gravity and its determination. Motion of pendulum, and of the torsion pendulum or balance.
- (b) *Heat*—Laws of expansion of solids, liquids, and gases under heat. Determination of co-efficients of expansion. Measurement of temperature. Maximum density of water. Changes of molecular state, and latent heat of molecular changes of state. Influence of change of pressure on the boiling point and melting point. Regulation. Laws of pressure of gases. Elastic force of vapour; dew point, and its determination. Formation of dew and clouds. Radiation, conduction and convection of heat. Phenomena of combustion. Steam engines.
- (c) *Light*—Laws of transmission of light and of its intensity. Shadows. Images produced by small apertures. Photometry. Reflection of light.

* The text-books will be fixed from time to time by the Syndicate. See Appendix B.

Refraction of light.
Images by reflection and refraction, and their position.
Critical angle.
Properties of prisms and lenses.
Telescope, microscope, spectroscope, the human eye.
Decomposition of light.

(d) *Frictional Electricity*—

Electrical attractions and repulsions.
Properties of conductors and non-conductors.
Electrical induction.
Electrical force and density.
Electrical distribution on conductors.
Power of points.
Ramsden's and Armstrong's electrical machines.
Condenser, electrophorus, Leyden jar.
Electric discharges.
Atmospheric electricity.

(e) *Dynamic Electricity*

Voltaic pile, its modifications.
Effects of the current.
Electro-dynamics.
Electromagnetism.
Voltage Induction.
Thermoelectricity.

V.—HISTORY

The outlines of the History of Greece and Rome.
The historical questions shall include questions relating to the geography of the countries to which they refer.
The text-books will be fixed from time to time by the Syndicate. (See Appendix B)

VI—LOGIC.

Deductive Logic

BACHELOR OF ARTS.

1. An Examination for the degree of Bachelor of Arts shall be held annually in Calcutta and Agra, and shall commence at such time as the Syndicate shall determine the date to be approximately notified in the Calendar for the year.

2. Any undergraduate of the University may be admitted to the Examination, provided he has prosecuted a regular course of study in any affiliated institution for not less than two academical years after passing the First Examination in Arts.*

3. Any candidate may be examined either for a pass or for honours in any branch. A candidate who desires to be examined for honours in any branch, must take up instead of the pass subject the corresponding honour subject. A candidate who obtains honours in any branch will be considered to have also passed in that branch. Should a candidate not have deserved honours in any branch, the examiners shall be authorized to declare that he has passed in that branch, if they consider that his attainments come up to the pass standard.

4. Every candidate shall send his application, with a certificate in the form entered in Appendix A, to the Registrar at least thirty days before the date fixed for the commencement of the Examination. If he desires to be examined for Honours, he shall state in his application the subject or subjects in which he desires to be so examined.

5. A fee of thirty rupees shall be payable by each candidate. No candidate shall be admitted to the examination, unless he shall have paid this fee to the Registrar. A candidate who fails to pass or to present himself for examination shall not be entitled to claim a refund of the fee. A candidate may be admitted to one or more subsequent examinations for the degree of Bachelor of Arts on payment of a like fee of thirty rupees on each occasion, provided he produces a certificate from the head of an affiliated institution showing that he has prosecuted a regular course of study for six months since the date of the last Examination to which he was admitted.

* The Syndicate has power to make exceptions to this rule in favour of Deputy Inspectors of Schools and School-

6. The Examination for the degree of Bachelor of Arts shall be conducted by means of printed papers.

7. At such time as the Syndicate shall determine, (the date to be approximately notified in the Calendar for the year) the Syndicate shall publish a list of the candidates who have passed arranged in alphabetical order, together with a list of those who have obtained Honours in each branch, arranged in two divisions both in order of merit. At the examination for the degree of Bachelor of Arts every candidate shall be examined in one or other of the two following courses marked A and B:—

A.*

Pass Subjects.

Corresponding Honour Subjects.

I—English

I.—In addition to the pass subjects, a further course in English and the history of the English language and literature.

II—Mental and Moral Science, i.e., Psychology, including the Psychology of Ethics and the History of Moral Systems

II.—In addition to the pass course, the History of Modern European Philosophy and either
(a) Pure Logic or
(b) Natural Theology.

And one of the following—

III—A second language (defined as in F. A. course).

III.—In addition to the pass course, Comparative Grammar and either a second course in the classical language or a second classical language.

IV—History of England and History either of India or of Greece and Rome. Elements of Political Economy.

IV.—History of England, India, Greece and Rome, a further course of Political Economy than the pass course, and Arnold's Lectures on Modern History, or Mill on Representative Government, or History of the Jews.

V.—Mathematics as in the B Course.

V.—Mathematics as in the B. Honour Course.

B.*

Pass Subjects

Corresponding Honour Subjects

I—English

I.—In addition to the pass course, a course of prose works on scientific subjects.

II—Mathematics.
Statics
Dynamics
Hydrostatics

II.—In addition to the pass course, Analytical Plane Geometry and the Differential and Integral Calculus as defined below.

And one of the following—

III.—Physics and the Elements of Chemistry as defined below.

III.—The full course in Physics and Chemistry together with the Doctrine of Scientific Method.

IV—Chemistry and the Elements of Physics as defined below.

IV.—The full course in Physics and Chemistry together with the Doctrine of Scientific Method.

V—Physiology and either Botany or Zoology as defined below.

V.—Physiology, Botany and Zoology together with the Doctrine of Scientific Method.

VI.—Geology and either Mineralogy or Physical Geography as defined below.

VI.—Geology, Mineralogy and Physical Geography together with the Doctrine of Scientific Method.

DEFINITION OF SUBJECTS.

II.—Mathematics.

The pass subjects shall include—

(a) *Statics*—

Parallelogram and triangle of forces.
Resultant of parallel forces.

* The text-books are fixed from time to time by the Syndicate. See Appendix B.

Couples.**Moments.**

Equilibrium. Conditions of equilibrium of any forces acting on a particle or rigid body.

Centre of parallel forces.

Centre of gravity, or centroids.

Friction.

Simple cases of tension of strings.

Lever; pulley; wheel and axle; inclined plane; screw.

Virtual velocities.

(b) Dynamics—

Definition and measurement of mass, force, velocity, acceleration, momentum, work, and energy.

Laws of motion.

Uniform motion.

Uniformly accelerated motion—

(1) In a straight line.

(2) In a parabola.

(3) In a circle.

Simple cases of impact.

(c) Hydrostatics—

The transmission and intensity of fluid pressure.

Determination of component and resultant fluid pressure in simple cases.

Centre of pressure.

Conditions of equilibrium of floating bodies.

Metacentre.

Properties of elastic fluids and determination of pressure.

Specific gravity, and the methods of determining it.

Measurement of heights by the barometer.

Mixture of gases

Description of the barometer, air pump, common and force pumps, the diving-bell, the balloon, siphon, and Bramah's press, as applications of hydrostatical principles.

The Honour subjects shall include—

(a) Analytical Plane Geometry.

Rectangular and polar co-ordinates.

Transformation of co-ordinates.

The straight line.

The circle.

The parabola.

The ellipse.

The hyperbola.

The general equation of the second degree.

(b) Differential Calculus.

Definition of differential co-efficients.

Differentiation of functions of a single variable.

Successive differentiation.

Taylor's and Maclaurin's theorems, and their simpler applications.

Evaluation of functions which assume an indeterminate form.

Differentiation of functions and implicit functions.

Maxima and minima values of functions of one variable.

Tangents, normals, asymptotes, curvature, singular points, evolutes, involutes.

Tracing of curves.

(c) Integral Calculus.

Integration of simple functions of a single variable.

Integration of rational fractions.

Integration by formulae of reduction.

Determination of lengths and areas of curves.

III, IV.—PHYSICS AND CHEMISTRY.

The elements of Physics shall include the following considered with special reference to Chemistry:—

(a) Heat—

Heat of combustion, absolute thermal effects and pyrometric thermal effects of chemical combination, theory of flame, theories of the source of light in luminous flames.

(b) Light—

Reflection and refraction, dispersion, spectrum analysis, chemistry of light, photography, fluorescence, double refraction and polarization, saccharimeters.

(c) Magnetism—

Magnetism. Magnetic polarity, natural and artificial magnets diamagnetism.

(d) Electricity—

Two kinds of electricity, insulators and conductors; sources of electricity, electricity developed by chemical action, voltaic electricity, various batteries, electrolysis, laws of electrolysis, electroplating, electro-gilding.

Physics shall include—

(a) General Ideas—**1.—Wave motion:—**

Measurement of simple or harmonic wave motions.

Combination of wave motions.

Resolution of complex wave motions into simple or harmonic wave motions.

2.—Potential:—

Definition of potential.

Calculation of potential in simple cases.

Determination of force from potential.

Fundamental propositions respecting lines of force, equipotential surfaces, and tubes of force.

3.—Elasticity:—

Definition of elasticity.

Measurement of elasticity in the cases of solids, liquids, and gases.

Distinction between, and determination of, elasticity of constant temperature and of constant entropy for gases.

(b) Heat—

In addition to a more thorough acquaintance with the subject than that required for the First Arts Examination and a greater power of working problems on heat, an elementary knowledge of the principles of thermo-dynamics will be required.

(c) Light—

In this subject, more difficult questions in the determination of focal lengths, &c., will be required than for the First Arts Examination. Also the following:—

Spherical aberration.

Dispersion.

The formation of rainbows.

(d) Frictional Electricity—

This subject must now be taken up in connection with potential.

(e) Sound—

The laws of the production and propagation of sound determined experimentally.

Intensity, pitch, and quality of sounds.

The velocity of sound in air and other media:

Doppler's principle

Reflection and refraction of sound.

Measurement of sound vibrations and wave lengths of air.

Resonance.

Interference of sound waves. Beats.

Harmonic tones; their generation and function in sound.

Longitudinal vibration of rods and of columns of air.

Transverse vibration of strings.

Formation of Chladni's figures.

Vibrations of tuning-forks and bells.

Nature of musical sounds.

Vocal organs of man.

(f) Dynamical Electricity—

Voltaic batteries as sources of electric currents.

Action of currents on magnetic needles. Galvanometers.

Thermo-electric currents.

Definition and measurement of electric force, conductivity, resistance, and current.

Ohm's law, and its simpler applications.

Laws of action of currents on currents, and their simpler applications.

Solenoids. Ampère's theory of magnetism.

Electro-magnets.

Mechanical, chemical, and heating effects of currents. Electrolysis.

Induced currents, their modes of generation and laws of action.

Rubinkorff's coil.

Electro-magnetic currents.

Electro-magnetic machines; the more important details of the working of telegraphs.

Theories of electricity.

(g) Magnetism—

Properties of permanent and artificial magnets.
Magnetic induction.
Phenomena of terrestrial magnetism.
Determination of declination, dip, and intensity of the magnetic force of the earth.
The compass needle.
Methods of magnetisation.
Determination of magnetic laws of action by the torsion balance.
Magnetic Potential.

(h) Polarization of Light—

Undulatory theory of light.
Reflection and refraction of light.
Prismatic analysis of light.
Achromatism.
Explanation of lines in the solar and other spectra.
Interference of light.
Diffraction of light.
Measurements of wave lengths of light.
Colours of thin plates.
Double refraction.
Polarization of light by reflection, refraction, and double refraction.
Interference of polarized light as shown by double refracting crystals. Polariscopes.
Elliptic and circular polarization.
Rotary polarization.

The Elements of Chemistry shall include:—

(a) The following general considerations:—

Definition of chemistry; differences between chemical action and the action of the physical forces; simple and compound matter; different modes of chemical action; combining weights, volume weights; principles of chemical nomenclature, symbolic notation, graphic notation; chemical equations; atoms and molecules; general knowledge of atomicity of elements; simple and compound radicals; classification of elements.

(b) A fairly complete knowledge of the modes of occurrence, methods of preparation, properties, uses, and general characters of the following non-metallic elements, of their allotropic modifications, and of their principal and best known compounds:—

Hydrogen, fluorine, chlorine, bromine, iodine.
Oxygen (and ozone).
Boron.
Carbon, silicon.
Nitrogen, phosphorus, arsenic.
Sulphur.

(c) A general knowledge of:—

The distinctions between non-metals and metals.
Acids, bases, and salts.
The constitution of salts.
The principles of crystallography.

(d) A knowledge of the methods of preparation, properties, and uses of the following metals and their principal salts:—

Sodium, potassium, ammonium, silver.
Calcium (glass manufacture, &c.), magnesium, zinc, copper, mercury.
Gold.
Lead, tin, platinum, aluminium (porcelain, pottery, &c.).
Antimony, bismuth.
Chromium, manganese, iron.

Chemistry shall include, in addition to a fuller knowledge of the subjects specified under the head Elements of Chemistry—

Inorganic Chemistry—**(a) General considerations:—**

Laws of chemical combination, equivalents, atomic weights, physical and chemical relations of atomic weights, specific or atomic volumes, a more complete knowledge of the subject of atomicity; or quantivalence, artide, perissads, &c.; variations of atomicity; absolute, latent, and active atomicity; relations between atomic weight and quantivalence, chemical affinity, influence of pressure on chemical action, relations of heat to chemical affinity, &c., physical properties of metals, chemical relations of metals, alloys, general characters and general methods of preparation of compounds of metals with non-metals, theory of normal, acid and basic salts, isomerism, the principles of qualitative analysis.

(b) Study of the following elements:—

Selenium, tellurium, lithium, cesium, rubidium, barium, strontium, the earth metals, cadmium, indium, gallium, titanium, vanadium, uranium, tungsten, molybdenum, nickel, cobalt, and the platinum metals.

(c) A knowledge of the methods used in the preparation of the more important acids, salts, &c., employed in the arts and manufactures.**(d) A knowledge of metallurgical operations, such as are employed in the preparations of iron, zinc, copper, lead, tin, mercury, silver, and aluminium.****Organic Chemistry—****(a) The following general considerations:—**

Definition of organic bodies, synthesis from inorganic materials, decompositions and transformations of organic compounds, analysis of organic bodies.

Determination of the specific gravity of gases and vapours.

Determination of empirical, rational, and constitutional formulæ; theory of types, classification of organic compounds, organic series, constitutional formulæ of organic compounds.

(b) Isomerism, metamorphism, and polymerism, physical properties of organic compounds.

A knowledge of some few typical compounds in each of the different classes of organic compounds.

V. Physiology shall include:—**(1) A course of practical instruction in Elementary Biology.****(2) General Physiology.****(3) Special Physiology of the Vertebrata.****(4) Special Physiology of the Invertebrata.****Botany shall include:—****(a) The morphology and histology of flowering plants; the general principles of their classification on the systems of Linnæus and de Candolle, with a detailed acquaintance with the characters of the following natural orders:—**

Anonaceæ.	Apocynaceæ.
Ment-smaceæ.	Asclepiadaceæ.
Nymphaeaceæ.	Convolvulaceæ.
Papaveraceæ.	Solanaceæ.
Cruciferae.	Boraginæ.
Malvaceæ.	Acanthaceæ.
Sterculiaceæ.	Verbenaceæ.
Tiliaceæ.	Labiatæ.
Aurantaceæ.	Amarantaceæ.
Ampehdæ.	Urticaceæ.
Anacardiaceæ.	Euphorbiaceæ.
Leguminosæ.	Palmeæ.
Myrtaceæ.	Aroideæ.
Combræaceæ.	Commelynacææ.
Cucurbitaceæ.	Ochridaceæ.
Umbelliferæ.	Scitamineæ.
Rubiaceæ.	Cyperaceæ.
Compositæ.	Gramineæ.

(b) A general acquaintance with the morphology, histology and classification of cryptogams.**(c) Vegetable physiology.****Zoology shall include:—**

Embryonic development and comparative anatomy of the principal orders of animals, ordinal classification of the animal kingdom, and generic classification of one selected order of Vertebrata and one of Invertebrata, to be notified beforehand. The geographical distribution and habitats of animals. The species of the mammals of India, omitting the micro-mammalia, viz., Insectivora, Rodentia, and Chiroptera; and the Indian genera of one order of Reptilia and one of Aves, to be previously notified.

VI. Geology shall include:—

The classification, structure, and formation of rocks.

The evidence of past changes afforded by their present condition, and a practical acquaintance with their mineral characteristics, to be tested by specimens. The generic determination of the most characteristic fossil forms, and the indication of age and habitat which they afford. A practical knowledge of fossil forms, to be tested by specimens. A general knowledge of the geology of Great Britain and Western Europe, and a more detailed knowledge of the geology of India. An acquaintance with geological maps, to be tested by the construction of a geological section from a given map.

Mineralogy shall include:—

- (a) General characteristics of minerals.
- (b) Crystallography of the structure of minerals, fundamental forms of crystals cleavage, secondary forms, compound crystals, dimorphism, irregularities of crystals, measuring angles of crystals, massive minerals columnar structure, lamellar and granular structure, pseudomorphous crystals.
- (c) Physical properties of minerals; lustre, colour, diaphaneity, refractions and polarization, phosphorescence, electricity and magnetism, specific gravity, hardness, state of aggregation, fracture, taste, odour.
- (d) Chemical properties of minerals; action of acids, &c., on minerals; blow-pipe reactions of minerals.
- (e) Classification of minerals.
- (f) Description and recognition of the more important minerals and rocks or mineral aggregates.
- (g) Chemical composition and formulae of minerals.

Physical Geography shall include:—

The form and denity of the earth, and modes of ascertaining them. The distribution and characteristic geographical phenomena of land and water. Climate and its determining causes. The inorganic physical geography of India. Meteorology.

EXAMINATION FOR THE DEGREE OF M. A.

1. An Examination for the degree of Master of Arts shall be held annually in Calcutta, commencing at such time as the Syndicate shall determine, the date to be approximately notified in the Calendar for the year.

2. Any candidate who has passed the B. A. Examination may be examined for the degree of M. A. in one or more of the following branches:

- (1) Languages.
- (2) History.
- (3) Mental and Moral Philosophy.
- (4) Mathematics.
- (5) Natural and Physical Science.

3. A fee of rupees fifty shall be payable by each candidate. No candidate shall be examined unless he shall have paid this fee to the Registrar. A candidate who fails to pass or to present himself for Examination shall not be entitled to claim a refund of the fee.

4. Every candidate shall intimate to the Registrar the branch or branches in which he desires to be examined. Such intimation must reach the office of the Registrar at such time as the Syndicate shall determine, the date to be approximately notified in the Calendar for the year.

5. The Examination in languages shall be in English for candidates whose vernacular is not English, or in any one of the following classical languages, *viz.*, Greek, Latin, Sanskrit, Arabic, Persian, Hebrew and Pali.

The subjects in languages shall be selected by the Syndicate two years before the Examination.

The Examination shall include written answers in English to questions relating to the books selected for the Examination.

It shall also include questions on comparative grammar, with special reference to the language professed by the candidate.

Every candidate shall be required to write an Essay in English on a subject connected with the History or Literature of the Language professed by him.

The Examination in English shall include the elements of Anglo-Saxon grammar.

The Examination in the classical languages shall include translation into English from the language professed by the candidate, and into that language from English.

6. The Examination in History* shall be in the following subjects:—

- (a) The History of England (including Scotland, Ireland and the British Colonies and Dependencies) to the accession of Queen Victoria.
- (b) The Constitutional History of England.

* For text-books see Appendix B.

- (c) A selected period of History—Indian or European, Ancient, Medieval, or Modern—to be studied with reference to original sources.
- (d) Political Philosophy, General Jurisprudence, and International Law.
- (e) Political Economy and Economic History.

Candidates shall also be required to write an Essay in English on some subject included in the foregoing course.

7. The Examination in Mental and Moral Philosophy shall be in the following subjects:—

- Logic, Deductive and Inductive.
- Psychology.
- Ethics.
- Natural Theology, or the Evidences of Christianity.

The above subjects shall be studied historically in the works of the principal authorities.*

8. The Examination in Mathematics shall be in the following subjects:—

- (1) Algebra.
- (2) Plane Trigonometry.
- (3) Theory of Equations and the Elements of Determinants.
- (4) Analytical Plane Geometry.
- (5) Analytical Solid Geometry.
- (6) Differential Calculus.
- (7) Integral Calculus, omitting elliptic integrals and the calculus of variations.
- (8) Differential Equations.
- (9) Statics.
- (10) Dynamics of a Particle, omitting the more complicated problems of constrained motion upon surfaces, and also propositions involving the application of the calculus of variations.
- (11) Hydromechanics, omitting the theory of sound.
- (12) Geometrical Optics, omitting the formulae for the calculation of spherical aberration, and reflection and refraction at surfaces in any manner.
- (13) Spherical Trigonometry, omitting the parts which are not required in Astronomy.
- (14) Practical and Spherical Astronomy.
- (15) Newton's Principia, sections I to III.
- (16) Rigid Dynamics, including the motion of Rigid Bodies in two dimensions.

9. Candidates in Natural and Physical Science shall be allowed to select alternatively two out of the following group of subjects:—

- (A) Chemistry.
- (I) Electricity and Magnetism.
- (C) Heat and the elements of Molecular Physics.

Or two out of the following group:—

- (D) Botany.
- (E) Physiology and Zoology.
- (F) Geology and Mineralogy.

(A) The course in chemistry shall be both theoretical and practical. In the practical Examination candidates ought to show a good knowledge of chemical manipulation and ought to be able to qualitatively analyse complex inorganic substances. They should also be acquainted with the principles of quantitative analysis.*

(B) The course in Electricity and Magnetism shall include questions presupposing a moderate acquaintance with the principles and methods of the Differential Calculus, Integral Calculus and Differential Equations. The candidate shall be required to show that he has a competent practical knowledge of the instruments and apparatus employed in Magnetism and Electricity, and to execute experiments in the presence of the Examiner.*

(C) The course in Heat shall include questions presupposing acquaintance with the principles and methods of the Differential Calculus, Integral Calculus, and Differential Equations. The candidate should also show himself thoroughly acquainted with the various instruments and apparatus employed in Heat, and should be prepared to perform measurements and experiments in the presence of the Examiner.*

(D) Botany* shall include the following:—

- (a) General and special Morphology and Physiology.
- (b) Systematic Botany.
- (c) Palaeobotany.
- (d) Practical knowledge of indigenous Indian plants and identification of specimens of them by Burgh's *Flora Indica* (Clarke's edition).

* For text-books see Appendix B.

(E) Zoology* shall include the subjects of (a) Comparative Anatomy and Physiology, (b) Distribution and (c) Evolution.

(F) Geology and Mineralogy* shall include the subjects of (a) Stratigraphical Geology, (b) Palaeontology, (c) Mineralogy, (d) Crystallography, (e) Elementary Inorganic Chemistry.

10. As soon as possible after each Examination for the degree of M. A., the Syndicate shall publish a list of candidates who have passed, arranged in three classes, each in order of merit. Candidates shall be bracketed together, unless the Examiners are of opinion that there is clearly a difference in their merits. Each successful candidate shall receive with his degree of M. A. a certificate setting forth the subject in which he was examined, and the class in which he was placed.

11. The candidate who shall be placed first in the first class in each branch shall receive a Gold Medal and a prize of books to the value of one hundred rupees, and the second student of the first class in each branch shall receive a Silver Medal and a prize of books to the value of one hundred rupees.

12. Any Master of Arts may, on payment of a fee of fifty rupees, be admitted to the M. A. Examination in any branch other than that in which he was previously examined, and may, if his attainments come up to the standard prescribed for the degree of M. A., be granted a certificate to that effect, stating the class in which he has passed. A candidate who fails to pass, or to present himself for Examination, shall not be entitled to claim a refund of the fee.

In paragraph 15 of the Regulations for the degree of Bachelor of Medicine the word "two" has been substituted for the word "three," so that the paragraph will henceforth run as follows:—"Any Licentiate of two years' standing may be admitted to this degree, &c."

CHARLES H. TAWNEY,
Registrar.

SENATE HOUSE,
The 4th March 1882.

CALCUTTA UNIVERSITY.

NOTICE.

It is hereby notified for general information that a Convocation of the University of Calcutta for conferring degrees will be held at the Senate House on Saturday, the 11th March at 4 P.M.

Graduates of the University in academic costume are admissible on presenting themselves at the Senate House at 3 P.M.

CHARLES H. TAWNEY,
Registrar.

SENATE HOUSE,
The 1st March 1882.

SURVEY OF INDIA.

NOTIFICATION.

Calcutta, the 2nd March 1882.

No. 262.—Mr. E. J. Martin, Assistant Surveyor, 1st Grade, is granted furlough in India

* For text-books see Appendix B.

for one year, under Section 131, Chapter X, of the Civil Leave Code, with effect from the 1st April next.

J. T. WALKER, *Lieut.-Genl., R.E.,*
Surveyor General of India.

REVENUE BRANCH, SURVEY OF INDIA.

NOTIFICATION.

Calcutta, the 2nd March 1882.

No. 2.—Mr. J. C. Kelly, Assistant Surveyor, 3rd Grade, is granted privilege leave for three months, under Chapter X, Section 136, of the Civil Leave Code.

J. SCONCE, *Lieut.-Col.,*
Deputy Surveyor General.

SURGEON-GENERAL WITH THE GOVERNMENT OF INDIA.

NOTIFICATIONS.

Calcutta, the 17th February 1882.

No. 8.—Third Grade Assistant Surgeon Jogendra Nath Datta, of the supernumerary list, is dismissed the service, with effect from the 30th December 1881.

The 21st February 1882.

No. 9.—The services of the under-mentioned Hospital Assistants of the military establishment are placed permanently at the disposal of the Agent, Governor General, for Rajputana, for civil employment in that Province:—

2nd Class, No. 61, Imdad Hoossein.

3rd Class, No. 296, Yousuf Narain.

The 23rd February 1882.

No. 10.—Third Grade Assistant Surgeon Tannay Churn Bose, of the Bengal provincial establishment, is permitted to resign the service, with effect from the 23rd January 1882.

J. M. CUNINGHAM, M.D.,
Surgeon-Genl. with the Govt. of India.

AGENT, GOVERNOR GENERAL, FOR RAJPUTANA.

NOTIFICATION.

Mount Abu, the 21st February 1882.

No. 373 G.—Lieutenant-Colonel A. Conolly and Colonel C. H. Clay, respectively, made over and assumed command of the Deoli Irregular Force on the forenoon of the 4th February 1882.

By Order,

F. T. HEWSON,
for 1st Asst. Agent to the Govr. Genl.

CHIEF COMMISSIONER OF AJMIR-MERWARA.

Mount Abu, the 9th February 1882.

CITATION UNDER SECTION 250 OF ACT X OF 1865.

In the Court of the Commissioner and District Judge, Ajmir-Merwara.

In the matter of application of Mr. W. Coke, for probate of the will of the late Sergeant Robert Macaulay, Foreman, Ajmir, No. 2142, of the 1-5th Fusiliers Regiment of Foot.

Whereas Mr. William Coke, of Ajmir, has this day made application to this Court for grant of probate of the will executed by the late Sergeant Robert Macaulay, Foreman, Ajmir, No. 2142, of the 1-5th Fusiliers Regiment of Foot, this citation is issued calling upon persons interested in the estate of the deceased to take notice of the same, and come and see the proceedings before the grant of the probate on the 11th of March 1882, which is the date fixed for the hearing of the application.

L. S. SAUNDERS,

*Commissioner and District Judge,
Ajmir-Merwara.*

AJMR,
The 30th January 1882.

MILITARY DEPARTMENT.

Fort William, the 4th March, 1882.

Baboo Nobin Chunder Chuckerbutty, late Head Assistant in the Commissariat Field Account Office, has been dismissed from the service of Government.

G. CHESNEY, Colonel,

Secretary to the Government of India.

MILITARY DEPARTMENT— Military Works.

NOTIFICATIONS.

Simla, the 21st February 1882.

No. 2.—Lieutenant T. P. Cather, R.E., Temporary Executive Engineer, 4th Grade, Peshawar Division, Military Works, passed the Departmental Standard Examination prescribed in Public Works Department Code II, i, 21, on the 24th January 1882.

A. CADELL, Major-Genl., R.E.,

Insp. Genl. of Military Works.

Presidency & Oudh Command.

Lucknow, the 25th February 1882.

No. 2.—Lieutenant H. T. W. Jerome, R.E., Assistant Engineer, 1st Grade, attached to the Lucknow Division, Military Works, is transferred to Allahabad Division, Military Works.

No. 3.—Lieutenant W. R. Chippindall, R.E., Assistant Engineer, 1st Grade, attached to the Allahabad Division, Military Works, is transferred to Fort William Division, Military Works.

H. McV. CRICHTON, Major, R.E.,

*Supdg. Engr., Presdy. & Oudh Command,
Military Works.*

DIRECTOR GENERAL OF RAILWAYS.

NOTIFICATIONS.—ESTABLISHMENT.

Simla, the 2nd March 1882.

No. 17.—Mr. W. P. Johnson, Probationary Assistant Locomotive Superintendent, Punjab Northern State Railway, is attached temporarily to the Office of the Port Store-keeper at Karachi.

No. 18.—Mr. G. Moyle, Assistant Engineer, 1st Grade, Indus Valley State Railway, passed the Departmental Standard Examination in Hindustani on the 25th January 1882.

The 3rd March 1882.

No. 19.—With reference to Public Works Notification No. 67, dated the 24th February 1882, Mr. G. H. Lest, Executive Engineer, 2nd Grade, is posted to the Patna-Bahraich Railway Survey.

F. S. STANTON, Col., R.E.,

Director General of Railways.

*Report of a Deserter from the 2nd Battalion,
Royal Lanc. Regiment of Foot, dated at Colaba,
Bombay, this 22nd day of February 1882.*

Number, Rank, and Name,— No. 11—3337, Private Joseph Landers.	At what Place Enlisted,— Curragh Camp.
Age,—24 years.	Parish and County in which Born,—Thurles Co., Tip- perary.
Size,—5 feet 4½ inches.	
Colour of—	
Complexion, fair; Hair, light brown; Eyes, blue.	Marks,—Tattooed on both arms.
Date of Desertion,—19th February 1882.	Trade,—Servant.
Place of Desertion,—Colaba, Bombay, E. I.	Coat or Jacket,—
Date of Enlistment,—31st October 1876.	Waistcoat,— ... } Breeches or } Trowsers,— ... } REMARKS,— Under 5 years' service.

C. P. STOKES, Lieut.-Colonel,

Comdg. 2nd Battn., Rl. Lan. Regt. of Foot.

TREASURE TROVE.

Notice is hereby given that on some day in December 1881, 39 gold fanams, valued in all at Rs. 17-8, were found in the village of Dandavolee, in the Venkatagiri Zemindary, Nellore District, in the Madras Presidency.

All persons claiming the treasure, or any part thereof, are required to appear personally or by agent before the undersigned on the 24th July 1882, at Nellore, and establish their claims to it.

W. C. H. SHARKY,

*Deputy Collector,
for Collector.*

NELLORE COLLECTOR'S OFFICE,
The 17th February, 1882.

MEERUT CEMETERY.

Ruinous Tombs.

Notice is hereby given that the tombs enumerated below are in a ruinous condition, and that they will be demolished unless repaired by any relatives or friends of the persons deceased. Notice of intended repairs should reach the Chaplain not later than the 31st March 1882.

Name.	Rank or occupation.	Date of death.
1. Bayes, Thomas ...	Child, Horse Artillery ...	29th June 1813.
2. Black, George ...	Sergeant-Major, Kumaon Battalion ...	25th January 1814.
3. Berney, Henry ...	Sergeant, 14th Foot ...	22nd May 1820.
4. Bramley, Thomas ...	Hospital Steward, 14th Foot ...	6th February 1819.
5. Bowden, William ...	14th Foot ...	20th August (about 1820).
6. Brearley, John ...	8th Light Dragoons ...	10th August 1817.
7. Brown, Henry Curwen ...	Son of Captain Brown, 8th Light Dragoons ...	24th February 1820.
8. Brown, Eleanor ...	Wife of Sergeant Brown, 14th Foot ...	12th October 1818.
9. Brutton, Frances Russell ...	Wife of Major Brutton, 8th Light Dragoons ...	25th January 1817.
10. Buck, Andrew ...	5th Regiment ...	3rd April 1813.
11. Burke, Mary ...	Wife of Luke Burke, 67th Regiment ...	10th November 1816.
12. Bygram, George ...	Lieutenant, 8th Light Dragoons ...	Illegible (about 1820).
13. Cockburn, George ...	24th Light Dragoons ...	31st August 1811.
14. Connelly, Lawrence ...	Pensioner, 53rd Regiment ...	9th December 1850.
15. Cox, Joshua Henry ...	Child, 14th Foot ...	19th August 1819.
16. Davis, Richard ...	Child, 8th Light Dragoons ...	4th March 1816.
17. Davis, Edward ...	Sergeant, 14th Foot ...	30th August 1819.
18. Devlin, Thos. ...	Infant son of W. Devlin, 8th Light Dragoons ...	6th October 1818.
19. Dison, Simon ...	8th Light Dragoons ...	1817 (day illegible).
20. Downey, James ...	8th Light Dragoons ...	1817 (day illegible).
21. Farrell, Bernard ...	53rd Regiment ...	31st May 1813.
22. Font, John ...	67th Regiment ...	19th July 1817.
23. Franklin, Thomas ...	14th Regiment ...	24th August 1819.
24. French, John William ...	Son of John French, 14th Foot ...	28th August 1819.
25. Goodfellow, Christiana ...	Child, 14th Foot ...	20th September 1825.
26. Goose, Charlotte Hords ...	11th Dragoons ...	4th September 1825.
27. Grant, Charles ...	14th Foot ...	13th September 1818.
28. Guant, Mary ...	Wife of James Guant ...	13th November 1818.
29. Gwatkin, Theophila Palmer ...	Daughter of Edward Gwatkin ...	1st August 1813.
30. Hartman, Sarah ...	Wife of Fred. Hartman ...	20th September 1819.
31. Hendy, Cecelia ...	Child, Horse Artillery ...	3rd April 1817.
32. Heyman, Elizabeth ...	Daughter of Lieutenant Heyman, 8th Light Dragoons ...	21st September 1820.
33. Holiday, Eleanor ...	Child, 14th Foot ...	2nd August (about 1819).
34. Huggins, Alfred ...	Child, 14th Foot ...	13th June 1823.
35. Hunt, Anne ...	Child, 14th Foot ...	12th July 1819.
36. Jenkins, Robert ...	Child of Captain Jenkins ...	19th November 1824.
37. Johnson, John ...	Child, 24th Light Dragoons ...	9th September 1813.
38. Johnson, James ...	14th Foot ...	5th January 1820.
39. Johnson, John ...	14th Foot ...	13th September 1818.
40. King (illegible) ...	14th Foot ...	2nd December 1818.
41. Lang, Thomas ...	Apothecary ...	28th July 1819.
42. Leonard, Susannah ...	Daughter of Peter Leonard, 14th Foot ...	28th July 1818.
43. Leonard, Mary ...	Wife of Peter Leonard, 14th Foot ...	December 1818.
44. Little, John ...	8th Light Dragoons ...	15th August 1818.
45. Martin, Selina Elizabeth ...	Daughter of Lieutenant Martin, 52nd Native Infantry ...	6th September 1834.
46. Martin, Samuel ...	Son of Lieutenant Martin, 52nd Native Infantry ...	21st November 1834.
47. Martin, Charles Paton ...	Son of Lieutenant Martin, 52nd Native Infantry ...	15th October 1834.
48. Maycock, Eleanor ...	Wife of Hiram Maycock, 14th Foot ...	25th December 1819.
49. Maycock, George ...	Child of Hiram Maycock, 14th Foot ...	22nd August 1819.
50. McAndrews, John ...	8th Light Dragoons ...	Illegible.
51. McKinnerley, James ...	Son of James McKinnerley, 8th Light Dragoons ...	14th April 1818.
52. Moore, Hannah ...	Wife of Joseph Moore, 14th Foot ...	August 1819.
53. Mulken, William ...	Child of Lieutenant Mulken, 11th Dragoon Guards ...	28th June 1823.
54. Over, Maria ...	Wife of Wm. Over, 14th Foot ...	9th May 1819.
55. Noulan, Mary ...	Wife of John Noulan, 18th Royal Irish ...	28th April 1850.
56. Pritchard, Alice ...	Wife of Corporal Pritchard, 14th Foot ...	24th November 1818.
57. Payne, William ...	14th Regiment ...	17th May 1821.
58. Sandham, Marianne ...	Wife of Surgeon B. L. Sandham, 11th Light Dragoons ...	19th January 1830.
59. Smith, Mary ...	Wife of Color Sergeant A. Smith, 29th Regiment ...	27th December 1850.
60. Smith, Oswald ...	Child, 14th Foot ...	31st July 1823.
61. Smail, Richard ...	14th Foot ...	25th August 1819.
62. Stewart, Daniel ...	Cornet, 24th Light Dragoons ...	4th December 1812.
63. Sullivan, James ...	67th Regiment ...	9th August 1817.
64. Tierney, Thomas ...	3rd Troop, Horse Brigade ...	3rd June 1820.
65. Vernon, John ...	Sergeant, 67th Regiment ...	31st October 1816.
66. Ward, Elizabeth ...	Daughter of Jonathan Ward, 11th Light Dragoons ...	24th July 1824.
67. Webb, Sarah ...	Wife of William Webb, 16th Regiment ...	29th August 1829.
68. Waller, William ...	Child, 14th Foot ...	July 1819.
69. Widders, William Frederick ...	Child, 11th Light Dragoons ...	16th September 1822.
70. Williams, William ...	Child, 14th Foot ...	19th July 1819.
71. Wing, Jemima ...	Wife of John Wing, 14th Foot ...	10th April 1818.
72. Wing, John ...	Child of John Wing, 14th Foot ...	28th September 1819.

* Only the pillars ruinous. Tomb requires simple repairs.

OSCAR D. WATKINS,
Chaplain of Meerut.

The 15th February 1882.

STATEMENT of Government Promissory Notes enforced for payment of Interest in London, under deduction of amount re-transferred to India, and outstanding in the Books of the Bank of Bengal on the 28th February 1852.

PARTICULARS.	4 PER CENT. LOANS					4½ PER CENT. LOANS					GRAND TOTAL.						
	3½ PER CENT. TRANS. LOAN OF 1824-25 1825-29 1832-34	OF 1832-38	OF 1838-36	OF 1842-43	OF 1843-55.	Transfer of 1865	Reduced 4 per cent. Loan of 1879.	TOTAL.	TRANSFERS LOAN OF 1879. 4½ PER CENT. PORTION	TOTAL.							
Balance of 15th February 1893	54,100	3,413	14,03,550	2,34,97,400	1,03,08,700	2,57,18,537	2,87,43,890	1,47,500	9,50,26,726	48,11,000	1,17,25,390	9,92,00,600	11,47,31,900	1,10,540	3,95,990	61,000	21,32,82,456
Amount enforced at Madras between 16th and 28th February 1892	...	...	...	34,000	10,000	1,77,000	...	...	1,51,000	...	...	2,000	2,000	...	...	...	1,53,000
Amount enforced at Bombay between 16th and 25th February 1892	...	...	...	9,200	20,700	3,51,000	3,13,500	...	12,44,700	...	...	2,21,200	2,21,200	...	...	...	14,84,000
Amount enforced at Madras between 16th and 28th February 1893	...	...	...	6,000	60,400	2,66,100	1,35,000	...	9,55,200	1,500	20,000	50,500	50,500	...	...	...	9,36,700
Amount written off in the London Registers	54,100	3,413	14,03,550	2,34,16,400	1,03,97,900	2,34,92,937	2,91,02,300	1,47,500	9,72,76,656	48,12,500	1,07,40,300	9,91,52,500	11,56,35,800	...	32,96,000	61,200	21,38,36,066
Balance on 25th February 1893	54,100	3,413	13,90,683	2,32,97,960	1,03,78,400	2,93,94,037	2,90,11,500	71,000	9,67,43,840	45,10,500	1,07,40,300	9,94,42,300	11,40,57,100	1,10,500	32,96,000	61,200	21,82,83,949

Note — From 9th June 1947 to 31st December 1951, enclosed from India 441 lakhs : re-transferred from London, 3,609 .akhs

"	1st Jan. 1852 to 18th January 1853
"	18th " " to 31st "
"	1st Feb. " to 15th Feb. "
"	18th " " to 28th "

4,590 i.k.b.
3,734 i.k.b.

Balance against India 80 lakhs.

PUBLIC DEBT OFFICE,
BANK OF BENGAL;
Calcutta, the 2nd March 1862.

R. HARDIE,
Secretary and Treasurer.

Statement of the Affairs of the Bank of Bengal for the week ending 28th February 1882.

LIABILITIES.			ASSETS.		
	Rs.	A. P.		Rs.	A. P.
Capital paid-up	2,00,00,000	0 0	Government Securities	73 12,200	14 0
Reserve Fund	30,11,988	4 4	Other authorized Investments	40,00,005	0 0
	Rs.	A. P.	Loans on Government and other authorized Securities	70,81,822	11 9
Public Deposits at Head Office	87,72,594	11 3	Accounts of Credit on Government and other authorized Securities	82,47,005	15 6
Public Deposits at Branches	1,57,51,915	12 0	Bills discounted and purchased	2,25,53,993	2 8
Other Deposits at Head Office and Branches	2,50,26,606	4 4	Balances with other Banks	7,19,337	7 6
Bank Post Bills, &c.	5,39,377	7 0	Bullion	6,24,204	2 9
Sundries	10,04,447	6 2	Dead Stock	11,09,588	3 9
			Stamps	8,152	5 0
			Sundries	4,90,612	7 8
				5,22,13,617	6 7
				Rs.	A. P.
			Cash and Currency Notes at Head Office	70,06,515	1 7
			Cash and Currency Notes at Branches	1,48,84,775	4 11
				2,18,93,290	6 6
				Rs.	A. P.
				7,41,06,907	13 1

BANK OF BENGAL,
Calcutta, 2nd March 1882.

J. GORDON,
Chief Acctt. & Depy. Secretary.

By order of the Directors,
R. HARDIE,
Secy. & Treasurer.

Weekly Statement of Silver tendered, of Certificates issued, and Silver Balance in the Mint.

DATE.	SILVER TENDERED, ESTIMATED VALUE.	CERTIFICATES ISSUED ON		BALANCE OF BULLION		
		General Treasury.	Currency Department.	Under Assay.	Assayed.	Held on account of the Currency Department.
1882.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Feb 20	...	1,91,128	2,89,015	27,818	69,35,001	33,25,306
" 21	...	1,76,536	8,397	19,917	68,44,196	31,53,298
" 22	...	1,61,264	...	19,917	67,40,210	29,90,048
" 23	...	1,49,588	...	654	66,18,531	28,40,559
" 24	...	1,67,706	...	654	66,62,709	28,86,031
" 25	1,71,470	77,380	573	1,71,680	64,63,160	26,07,254

CALCUTTA MINT,
The 27th February 1882.

J. F. TENNANT, Col., R.E.,
Mint Master.

CURRENCY NOTES.

The following Currency Notes of the Government of India are stated to have been lost, and payment of their value has been claimed by the persons whose names are placed against the numbers. Any other person having these Notes in his possession, or claiming a right to them, is warned to communicate at once with the undersigned:—

Bombay Circle.

Regt. No.	No. of Notes.	Value.	Name of Claimant.
1882		Rs.	
W9	M 43—90132 ...	100	J. Johnson, Sabarmati.
	M 46—08144 ...	50	
	" —26752 ...	50	
	" —34880 ...	50	
	F 9—79739 ...	50	

NOTES PARTIALLY LOST OR DESTROYED.

Regt. No.	No. of Notes.	Value.	Name of Claimant.
1882		Rs.	
H15	M 39—20434 ...	1,000	F. & C. Oslar, Calcutta.
H16	M 55—02767 ...	10	Mancherjee Kavasji Khori,
	" —28837 ...	10	Jabalpore.
H17	M 39—00185 ...	1,000	Jivraj Damodar, Bombay.
M10	M 56—43324 ...	20	Ganpat Rao, Mhow.
	" —43853 ...		
M11	M 12—11039 ...	5	Rastamji Raitanji, Ban-
	" —11038 ...		dora.

BOMBAY,
The 26th February 1882.

W. T. PIERCY,
for Commissioner.

Calcutta Circle.

NOTES WHOLLY LOST OR DESTROYED.

Regt. No.	No. of Notes.	Value.	Name of Claimant.
		Rs.	
346	O 89—93614 ...	1,000	Dewan Rojon Lal.
347	O 71—79563 ...	500	Muncherjee Maneekjee.
	O 97—22903 ...	100	
349	O 97—63278 ...	100	The Manager, N. B. State
			Railway, Saidpur.
350	O 82—86154 ...	50	The Sub-Inspector Govern-
			ment Railway Police,
			Raneegunge.
351	O 65—24542 ...	50	Mohamed Uniss.

NOTES PARTIALLY LOST OR DESTROYED.

Regt. No.	No. of Notes.	Value.	Name of Claimant.
		Rs.	
208	L 11—01395 ...	5	Chaud Khan.
	L 15—17124 ...		
209	O 96—66938 ...	100	Luckinaraia Das Shaha.
	O 97—26538 ...		
210	O 54—96756 ...	10	Woomes Chundra Bose.
	" —96755 ...		
211	P 6—11686 ...	10	Bonomally Mukerjee.
	O 95—95928 ...		
213	L 54—12075 ...	5	The Chief Paymaster, E. I.
	" —12076 ...		
298	O 82—33070 ...	10	Ram Bhajon Choube.
299	P 8—03580 ...	20	Gour Chunder Banerjee.
	P 13—58492 ...	5	
300	O 26—25618 ...	20	Moniruddy Shadagar.
301	P 1—63725 ...	10	Mrs. H. Groser.
302	O 71—86002 ...	500	Hajee Noor Mohamed Abbu
	" —80333 ...	500	
303	L 9—20116 ...	5	The Chief Pay Master, E. I.
			Railway, Calcutta.
304	O 32—20173 ...	50	Krishna Chundra Shaha.
	O 30—00626 ...	50	
305	O 97—63058 ...	100	Raiphawoo.
	" —63059 ...	100	
	" —03060 ...	100	
306	P 3—81974 ...	10	Nawab Khan.
307	L 30—11648 ...	5	Bepin Behari Sarkar.
	" —11687 ...	5	
	L 56—30571 ...	5	
308	O 83—80143 ...	10	Isan Chunder Das.
309	L 13—10591 ...	5	Mr. C. B. Burrows.
310	O 96—40993 ...	100	Babu Norendranath Bura.

CALCUTTA,
The 3rd March 1882.

R. A. STERNDALÉ,
Asst. Comptlr. Genl., Paper Currency.

Kurrachee Circle.

NOTE PARTIALLY LOST OR DESTROYED.

No. of Note.	Value.	Name of Claimant.
G 13-30232 } " -30233 }	5	J. Elton, Esq., Executive Engineer, Burmah, Rangoon.

* Misratched.

KURRACHEE,

The 22nd February 1882.

W. PATTON,

Asst. Depy. Commr., P. C., S. C.

Lahore Circle.

NOTES PARTIALLY LOST OR DESTROYED.

Reg. No.	No. of Notes.	Value.	Name of Claimant.
		Rs.	
17	E 16-80067	10	The Manager, Sukker
	" -85334	10	Society's Stores, Sukker
45	E 14-10705	10	
	E 15-53985	50	Ganesh Das, Clerk, Commissioner's Office, Peshawar.
45-54	E 15-53985	50	Chaudry Mohamed Sultan, Rawalpindi.

LAHORE.

The 24th February 1882.

H. J. BRERETON,

for Depy. Commr. of Paper Currency

Madras Circle.

NOTE WHOLLY LOST OR DESTROYED

Reg. No.	No. of Notes	Value	Name of Claimant.
		Rs.	
62	B 68-81157	100	Shah Farid, Wurdah.

NOTES PARTIALLY LOST OR DESTROYED

Reg. No.	No. of Notes	Value	Name of Claimant.
		Rs.	
130	I 2-08509	500	Mahomed Bin Ally Ibrahim, Gholla Chhajjee, care of Sir Charles Forbes & Co., Bombay.
131	B 47-79640	5	N. Embatamman Nayudu, China Bazar, Madras.
132	B 52-83216	10	R. Babrow, Anthyappah Nair Str. et, Madras.
133	I 2-07379	500	Nagaya Nutsipa, Parate Merchant, Mungalwarpet.
134	B 58-00175	100	Gohar Motana, Fernu Pettah, Mandi Merchant, Bangalore.
	" -00176	100	

FORT SAINT GEORGE,

The 20th February 1882.

H. S. GROVES,

Assistant Accountant General,
in charge of Paper Currency Dept.,
for Commissioner.

POST OFFICE.

NOTIFICATIONS

Calcutta, the 3rd March 1882.

From the 6th March to the 15th April, the Presidency Post Master, Calcutta, will receive applications for express passenger Daks between Umballa and Simla.

A printed copy of the Rules can be obtained from the Post Master on application.

G. J. HYNES,

Asst. Dir. Genl. of Post Office of India.

The 3rd March 1882.

No. 12856.—Appointment in the Post Office Department made by the Director General of the Post Office of India:—

POSTAL CIRCLE, BENGAL.

Mr. L. A. Massa is appointed to act as Deputy Post Master of Calcutta in addition to his own duties.

E. R. DOUGLAS,

Depy. Dir. Genl. of the Post Office of India.

SEA AND FOREIGN MAILS.

For	Box closes at	Date.	Per Steamer.
		1882	
Perman Gulf	7 P. M.	11th Mar.	From Bombay.
Aden, Ceylon and the Intermediate Ports	7 "	10th "	Str. Calcutta.
Yndia and Ceylon	7 "	12th "	Str. A. O. Str. Rangoon.
Calle, Penang, Singapore, Hong Kong and Shanghai, also Hong Kong to Yokohama, also for Australian Colonies	7 "	7th "	From Bombay.
Foreign Mails, Bombay	7 "	7th "	From Bombay.
The Book Post and Pattern	7 "	7th "	From Bombay.
Bombay, Moultain, and Straits	7 "	7th "	From Bombay.
Chittagong, Akra, Kynak Phyon	7 "	7th "	From Bombay.
Bandoway, and Rangoon	7 "	7th "	From Bombay.

* Also via Aden for Zanzibar and Mozambique, also via Aden for Mauritius, with exception of Mayotte, Nosse Be and Reunion can be forwarded by this opportunity.

† H.—The Letter Box will close at 7 P. M. precisely, after which hour no letters will be received for forwarding in extra postage stamp of four (4) annas on each cover, will be received up to 7.30 P. M.

List of Unclaimed Letters lying in the Calcutta Post Office on the 26th February 1882

Arson, C.	Durand, J.	Morgan, Major A. B.
Amber, Menden J. W.	Executor of the estate of the late H. M.	Morris, W. K.
Bell & Co.	Hinde	Nelson, V.
Beaton, Mrs. E.	Drake, Miss S.	Nobin Cauder Daw & Sons
Booth, Chandur Ghose	Greenman, F. F.	Pick, Mrs. E. H.
A. C.	Evans, W.	Radhika, V. B.
Benson, Mrs.	Hamel, T. J.	Radhika, James
Bout, Corporal William	Holmes, Mrs. C.	Ryan, M. L.
Brown, Mrs. Allen.	Johnstone, Colonel J.	Robertson, T. H.
Cartle, F.	Kent, Miss	Robertson, T. H.
Care, Mrs. T.	Lambert, G.	R. d. r. W.
Closton, H.	Lee, Miss (of Virginia)	Scott, A. O., Messrs. G.
Cole, Dr. G. H.	Leslie, R. H.	Secretary to the "Bruce" Agency.
Dale, General A.	MacKintosh & Co.	Singh, Mrs. J.
Davis, D. J.	Managers, Indian National Trading Agency & Co.	Smith, C. H.
Davis, Mrs.	Maxwell & Co.	Whitely, Captain James
Davis, P. E.	McGonick, Alexander.	Wood, J. M.
Dodd, H. A.	Merwani, G.	Wood, P. F.
Dwyer, H.		Young, Robert.
Duff, Miss B.		
Duff, A. C.		

Letters marked "Care of Post Office, to be kept till called for"

Archer, R.	Houghton, Lt.-Col. R.	Murphy, F. Brown.
Atkinson, J.	(M. S. C.)	Over, G.
"	Huison, William.	Orsman, Charles.
Bates, Nelson John.	Isa, H.	Palmer, Capt. A. Z.
Bell, Alex.	Jackson, E.	Pandey, B. D.
Bennett, Henry	Jackson, G.	Paquet, B. D.
Bentley, Mrs. G. W.	Jelley, R.	Paterson, T. W.
Beyl, G. F.	Johnston, H. T.	Peters, G. D.
Bradford, J.	Jones, A.	Philly, A. H.
Brown, J. J. (care of Branch Post Office)	Jones, F.	Pollock, W. N.
Buchanan, J. E.	Jones, Thos.	Pond, Mrs. H. B.
"Care of Obachura"	Kennedy, J. G.	Radhika, Vernon B.
Chapman, Captain F. C.	Kennedy, Miss N. L.	Roper, B. J.
Chapman, G. C.	Koerner, J. S.	Roy, M. B.
Comanthur, George.	Khanbatta, P. A.	Sandhu, Geo.
Cornhill, A. G.	Lester, A. B.	Saurin, M.
Cumline, Miss.	Loppre, Charles H.	Shaw, F.
Davis, W.	Lord, S.	Shannon, J. T.
Davis, W. H.	Macdonald, Alexander.	Simpson, A.
"Diamond"	Manah, Henry	Smith, Chas. C. D.
Dicken, Major P. L.	Marpherson, W. G.	Smith, H. Gordon.
Duff, J. C.	M. A.	Spencer, Mrs.
Dun an, Dr. W.	Maitland, T.	S. ph. et, Arthur.
Eastwood, E. P.	Manata, Signor Carlo.	Tan an, Sergeant E.
Fenton, J. J.	McGonick, T.	Vener, Albert.
Fletcher, Andrew.	McKilloch, R. W.	V. C. J.
Forbes, William Doug.	McVey, Hugh.	Vijayender Row R.
Frederick, R. A.	Moffat, Col. A. K.	Vande, Palla Jenkhar
Ganbarge, M. M.	Moreton, G.	"
Gargore, Miss L.	Morgan, William.	Wall, W. M.
Hankovetz, Charles.	Morrison, W.	Ward, Major.
Hare, Mrs.	M. S. U. Y.	Winnham, F. H.
Hare, Thomas.	Muller, H. (Editor of the "Gazette")	Wilson, Major F. A.
Hodges, Mrs. D. P.	Muller, W.	Willis, Miss E.
		Williams, W.
		W. J. H.

Registered Letters.

Anderson, Mrs. J.
Chapman, Capt. F. C.
Doddsworth, Miss C. T.
Fraser, C.

Jones, Mrs. J.
Oliver, Mrs. L.
Pinderick, H.
Patton, L. F.

Scott & Co., G.
Waine, F. W.
Webster, Morsha.

E. HUTTON.

Presidency Post Master.

COMMISSARIAT NOTICE.

Owing to a reduction of establishment the following Government elephants are for sale:—

1 male on view at Saugor.

1 male on view at Dinapore.

2. Descriptive rolls of these elephants have been distributed to chiefs, noblemen and heads of Civil Departments through Local Governments, Administrations, &c.

3. For particulars and offers for purchase of the elephants at Saugor, address the Executive Commissariat Officer, Jabalpur, and that for the one at Dinapore, the Executive Commissariat Officer there.

W. R. BUNBURY, Major,

for *Depty. Commissary General,**Lower Circle.*

DEPT. COMSY. GENL'S OFFICE,

CALCUTTA;

The 19th January 1882.

Owing to reduction of establishment the following Government elephants are for sale:—

1 on view at Lucknow, male tusker.

6 on view at Agra, 5 males, tuskers, 1 female.

1 on view at Bareilly, male tusker.

2. Descriptive rolls of these elephants have been distributed to chiefs, noblemen and heads of Civil Departments through Local Governments, Administrations, &c.

3. Further particulars can be obtained from, and offers for purchases of these elephants should be addressed to, Assistant Commissary General, Lucknow, Bareilly and Agra.

W. G. SMITH, Major,

Offg. Depty. Comsy. Genl.

DEPT. COMSY. GENL'S OFFICE,

CENTRAL CIRCLE;

Lucknow, the 23rd February 1882.

GOVERNMENT CINCHONA FEBRIFUGE.

This preparation is an efficient substitute for Quinine and can be purchased by Government officers for public and charitable purposes, and by any one taking *twenty pounds* at a time, from the Superintendent, Botanical Garden, Calcutta, for cash only, at the following rates:—per four ounce tin, Rs. 4-8; per eight ounce tin, Rs. 8-8; per pound tin, Rs. 16-8. The general public can be supplied by the Superintendent, Botanical Garden, for cash only, at the under-noted rates:—per four ounce tin Rs. 5-8; per eight ounce tin Rs. 10-8; per pound tin, Rs. 20. This medicine is also sold by the principal European and Native druggists in Calcutta. Postage 8 annas per four and eight ounce tins, and 12 annas per pound tin, in addition to the foregoing rates.

گورنمنٹ سنکونا فیری فیوج

بہہ دوا کوئیڈالین کا خوب فائدہ مقام ہی اور کلکتہ کے ہوائیکل گارڈن یعنی کمپنی داغ کے سپرنٹنڈنٹ صاحب سے ہوائیک ملازم سرکاری واسطے سرکاری کام اور حیرات کے اور سیوا کے لئے جو کوئی ایک صحت بیسی پودے خرید لینے سے نفیقتہ نقد حسب نرخ دیل خرید کر سکتے ہیں یعنی نرخ چار اونس کے ٹین کا چار روپیہ آٹھ آنہ; آٹھ اونس کے ٹین کا آٹھ روپیہ آٹھ آنہ; ایک پودے کے ٹین کا سولہ روپیہ آٹھ آنہ

اور عوام الناس ہوائیکل گارڈن یعنی کمپنی داغ کے سپرنٹنڈنٹ صاحب سے نفیقتہ نقد حسب نرخ دیل خرید کر سکتے ہیں یعنی نرخ چار اونس ٹین کا پانچ روپیہ آٹھ آنہ. آٹھ اونس کے ٹین کا دس روپیہ آٹھ آنہ; ایک پودے کے ٹین کا بیسی روپیہ

بہہ دوا کلکتہ کے بڑے بڑے وایتی اور دیسی دواخانہ میں بخفی ہی عاصیڈالین قیمت محدود مال کے محصول داک چار اور آٹھ اونس کے ٹین کا آٹھ آنہ; اور ایک پودے کے ٹین کا بارہ آنہ

Meteorological Publications for Sale.

The following publications of the Meteorological Office of the Government of India are on sale and can be procured at the Meteorological Office, No. 4, Middleton Row, or either at Messrs. Thacker, Spink & Co., or at Messrs. Brown & Co., at the prices noted against them:—

Report on the Meteorology of India, m 1875, 4to., 89 pages text, 297 pages tables, 3 charts	Rs. A. P.
...	8 0 0
Report on the Meteorology of India, m 1876, 4to., 97 pages text, 310 pages tables, 3 charts	8 0 0
Report on the Meteorology of India m 1877, 4to., 153 pages text, 375 pages tables, 3 charts	8 0 0
Report on the Meteorology of India, m 1878, 4to., 149 pages text, 380 pages tables, 3 plates, 4 charts	8 0 0
Indian Meteorological Memoirs, Vol. I, Part I, 4to., 118 pages, 9 plates	2 8 0
Indian Meteorological Memoirs, Vol. I, Part II, 4to., 67 pages, 1 plates	1 8 0
Indian Meteorological Memoirs, Vol. I, Part III, 4to., 86 pages, 2 plates	1 8 0
Indian Meteorological Memoirs, Vol. I, Part IV, 4to., 62 pages, 8 plates	1 8 0
Rainfall Chart of India, showing the average annual distribution of rainfall (in colors)	1 0 0
Report on the Vizagapatam and Backergunge Cyclones, October 1876, 4to., 87 pages, 4 plates	2 0 0
Report on the Madras Cyclone, May 1877, 4to., 117 pages text, 97 pages tables, 3 plates	2 8 0

HENRY P. BLANFORD,

Meteorological Reporter
to Government of India.**THE INDIAN LAW REPORTS.**

PUBLISHED UNDER AUTHORITY.

The "Indian Law Reports," published under the authority of the Governor General in Council

oil, will appear in monthly parts, published as soon as possible after the first of each month at Calcutta, Madras, Bombay, and Allahabad, and will comprise four series.—one for the Calcutta High Court, a second for the Madras High Court, a third for the Bombay High Court, and a fourth for the Allahabad High Court. The cases heard by the Privy Council on appeal from each High Court will be reported in the Series for that High Court. Cases heard by the Privy Council on appeal from Provinces in India not subject to any High Court will be reported in the Calcutta Series. The Parts of each Series can be had separately, or all four Parts can be had stitched into one wrapper at the option of subscribers and purchasers. It will be observed from the following statement of the terms of subscription and sale, that a considerable reduction is allowed to persons taking the complete set :

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Persons desiring to subscribe for or purchase the Reports, should apply to—

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MESSRS. THACKER AND CO., BOMBAY,
MESSRS. HIGGINBOTHAM AND CO., MADRAS ;
THE GOVERNMENT CENTRAL BOOK DEPOT, BOMBAY ;
THE GOVERNMENT BOOK DEPOT, ALLAHABAD.

Orders and Subscriptions for 1875 should be at once remitted.

THE BENGAL LAW REPORTS.

A few sets of the Bengal Law Reports (Volumes 1 to 15) are available at Messrs. Thacker, Spink & Co., Calcutta, at Rs. 375 a set.

List of Books for sale at the Library of the Asiatic Society of Bengal,

No. 57, PARK STREET, CALCUTTA,

AND OBTAINABLE FROM THE SOCIETY'S LONDON AGENTS, MESSRS. TRUBNER & CO., 57 AND 59, LUDGATE HILL, LONDON, E. C.

BIBLIOTHECA INDICA.

New Publications.

	Rs. A.
Srauta Sūtra, of Apostamba, fasci. I—II, at annas 10 each ...	1 4
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Sanskrit Series.

1. Ātharvāna Upanishads, fasci. I—V, at annas 10 each ...	3 2
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	Rs. A.
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3. Agni Purāṇa, fasci. I—XIV, at annas 10 each ...	8 12
4. Āitareya Aranyaka of the Rig Veda, fasci. I—V, at annas 10 each ...	3
5. Aphorisms of Sāṅdilya, fasci. I ...	0 10
6. Aphorisms of the Vedānta, fasci. III—XIII, at annas 10 each ...	6 14
7. Brahma Sūtras, fasci. I ...	1 0
8. Bhāmati, fasci. I—VIII, at annas 10 each ...	5 0
9. Brihat Āraṇyaka Upanishad, fasci. I—XI, at annas 10 each ...	6 14
10. Brihat Āraṇyaka Upanishad, English Translation, fasci. I—III, at annas 10 each ...	1 14
11. Brihat Samhitā, fasci. I—III, V—VII, at annas 10 each ...	3 12
12. Chaitanya-Chandrodaya Nāṭaka, fasci. I—III, at annas 10 each ...	1 14
13. Chaturvarga Chintāmani, fasci. I—XXXVII, at annas 10 each ...	23 2
14. Chhandogya Upanishad, Sanskrit, fasci. I—VI, at annas 10 each ...	3 12
15. Chhandogya Upanishad, English, fasci. I & II, at annas 10 each ...	1 4
16. Categories of the Nyāya Philosophy, fasci. I & II, at annas 10 each ...	1 4
17. Dasa-rūpa, fasci. I—III, at annas 10 each ...	1 14
18. Gopatha Brāhmana, fasci. I & II, at annas 10 each ...	1 4
19. Gopāla Tāpanī, fasci. I ...	0 10
20. Gobhila Grihya Sūtra, fasci. I—XII, at annas 10 each ...	7 8
21. Hindu Astronomy, fasci. I—III, at annas 10 each ...	1 14
22. Iṣā Kena Katha Prasna Munda Māndukya Upanishads, fasci. III—VI, at annas 10 each ...	2 8
23. Kātantra, fasci. I—VI, at rupee 1 each ...	6 0
24. Kathā Saṁit Sāgara, English, fasci. I—IX, at rupee 1 each ...	9 0
25. Kaushitaki Brāhmanopanishad, fasci. I & II, at annas 10 each ...	1 4
26. Kāvya-darśa of Śrī Dandin, fasci. I & II (fasci. III—V out of stock), at annas 10 each ...	1 4
27. Lalita Vistara, fasci. I—VI, at annas 10 each ...	3 12
28. Lalita Vistara, English, fasci. I ...	1 0
29. Maitri Upanishad, fasci. I—III, at annas 10 each ...	1 14
30. Mīmāṃsā Darśana, fasci. I—XVI, at annas 10 each ...	10 0
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Fasciculus of Forms referred to in Part I of the Bengal Medical Regulations. *Price, Rs. 9; packing and postage, Re. 1-4.*

The above to be had at the Office of Superintendent of Government Printing, 166, Dhurumtollah Street, Calcutta.

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Copies are to be had at the Office of the Director of Public Instruction.

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Report on the Internal Trade of Bengal for the year 1880-81. Published by the Government of Bengal. Price, Rs. 6; postage, 8 annas.

Report on the Internal Trade of Bengal for the year 1879-80. Published by the Government of Bengal. Price, Rs. 6; postage, 8 annas.

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Report on the Cultivation of, and Trade in, Gunja in Bengal. By HEM CHANDER KERR, Deputy Collector, on special duty. Price, Rs. 1-8; postage, 2 annas.

Report on the Cultivation of, and Trade in, Jute in Bengal, and on Indian Fibres available for the Manufacture of Paper; with Map. By HEM CHANDER KERR, Deputy Magistrate, on special duty. Price, Rs. 4; postage, 7 annas.

Report on the Food-grain Supply and Statistical Review of the Rent Operations in the distressed districts of Bengal during the Famine of 1873-74. By A. P. MACDONNELL, of the Bengal Civil Service. Price, Rs. 3-8; postage, 6 annas.

Prices of Food-grains, Firewood, and Salt in Bengal from 1866 to 1878, compiled in the Bengal Secretariat, Statistical Department. Price, Rs. 2; packing and postage, 3 annas.

Report on the Census of Bengal, 1872. By H. BRICKLEY, Esq., C.S., Registrar-General of Bengal. Price, Rs. 10; postage, 9 annas.

Report on the Effects of Artificial Respiration, Intavenous Injection of Ammonia, and Administration of various Drugs, &c., in India and Australian Snake-biting and the Physiological, Chemical and Microscopical Nature of Snake-poisons. By the Commission appointed to investigate the subject. Price, Rs. 3; postage, 4 annas.

Memorandum on the Revenue History of Chittagong. By H. J. S. COLLIER, Esq., Collector and Magistrate of Chittagong. Price, Rs. 3-4; packing and postage, 4 annas.

A Report on the District of Jessore: its Antiquities, its History and its Commerce. (Second Edition, Revised and Corrected.) By J. WESTLAND, Esq., C.S., late Magistrate and Collector of Jessore. Price, Rs. 3; postage, 5 annas.

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The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 4, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost

The Government Promissory Notes, No. 059378 for Rs. 1,000 and No. 086193 for Rs. 500, of the 4 per cent., originally standing in the name of person or persons (unknown), and last endorsed to Mr. Kanojee Rao Bin Deojee Goond, the proprietor, by whom they were never endorsed to any other person. Payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and the Residency Treasury at Indore, and application is about to be made for the issue of duplicates in favour of the proprietor.

KANOJEE RAO BIN DEOJEE GOOND,
*Major of His Highness Maharajah Holkar's
Howrah Cavalry, Indore.*

Stolen

The Government Promissory Notes, Nos. 089923 and 038637 of the 4 per cent. Loan of 1842-43, for Rs. 500 each, originally standing in the name of the Collector of Allahabad and the Bank of Bengal, respectively, and last endorsed to Baghel Singh, Subadar, 40th Regiment, B.N.I., the pro-

prietor, by whom they were never endorsed to any other person. Payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

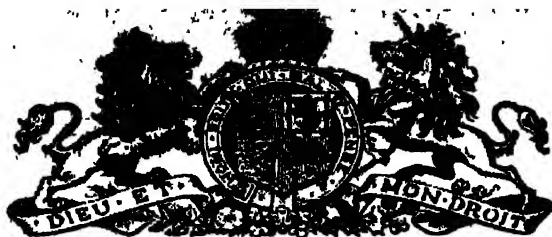
BAGHEL SINGH,
*Subadar, 40th Regt., B.N.I.,
With his Regiment at Barrackpore.*

Lost

The undermentioned Debentures of the Nagpore-Chhattisgarh Railway Loan (4½ per cent.) from the possession of the Tehsildar of Sihora, District Jubbulpore, prior to their delivery to the owners. They have not been endorsed to any one by the owners:—

No. 000017,	for Rs. 200.
„ 000050,	„ 500.
„ 000097,	„ 500.
„ 000098,	„ 500.
„ 001167,	„ 500.
„ 000178,	„ 500.

C. H. GRACE, *Lieut.-Col.,
Deputy Commissioner, Jubbulpore.*



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 4, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th February, 1882, and is hereby promulgated for general information:—

ACT No. IV OF 1882.

THE TRANSFER OF PROPERTY ACT, 1882.

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THE SCHEDULE—ENACTMENTS REPEALED.

An Act to amend the law relating to the Transfer of Property by act of Parties.

WHEREAS it is expedient to define and amend certain parts of the law relating to the transfer of property by act of parties; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Transfer of Property Act, 1882":
 Short title. It shall come into force on the first day of July, 1882;
 Commencement. It extends in the first instance to the whole of British India except the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governor of Panjáb and the Chief Commissioner of British Burma.
 Extent.

But any of the said Local Governments may, from time to time, by notification in the local official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

And any Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, throughout the whole or any part of the territories administered by such Local Government, the members of any race, sect, tribe or class from all or any of the following provisions, namely, sections forty-one, fifty-four, paragraphs two and three, fifty-nine, sixty-nine, one hundred and seven and one hundred and twenty-three.

2. In the territories to which this Act extends for the time being the enactments specified in the schedule hereto annexed shall be repealed to the extent therein mentioned. But nothing herein contained shall be deemed to affect—

(a) the provisions of any enactment not hereby expressly repealed:
 Saving of certain enactments, incidents, rights, liabilities, &c. (b) any terms or incidents of any contract or constitution of property which are consistent with the provisions of this Act, and are allowed by the law for the time being in force:

(c) any right or liability arising out of a legal relation constituted before this Act comes into force, or any relief in respect of any such right or liability: or,

(d) save as provided by section fifty-seven, and chapter four of this Act, any transfer by operation of law or by, or in execution of, a decree or order of a Court of competent jurisdiction: and nothing in the second chapter of this Act shall be deemed to affect any rule of Hindú, Muhammadan or Buddhist law.

3. In this Act, unless there is something repugnant in the subject or context,—

Interpretation-clause. "immoveable property" does not include standing timber, growing crops or grass:

"instrument" means a non-testamentary instrument:

"registered" means registered in British India under the law for the time being in force regulating the registration of documents.

"registered"

"attached to the earth"

"attached to the earth" means—

(a) rooted in the earth, as in the case of trees and shrubs,

(b) imbedded in the earth, as in the case of walls or buildings, or

(c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached

and a person is said to have "notice" of a fact when he actually knows

"notice"

that fact, or when, but for wilful abstention from an inquiry or search which he ought to have made, or gross negligence, he would have known it, or when information of the fact is given to or obtained by his agent under the circumstances mentioned in the Indian Contract Act, 1872, section 229

4 The chapters and sections of this Act which relate to contracts shall be taken as part of the Indian Contract Act, 1872

Provisions relating to contracts to be taken as part of Act IX of 1872

CHAPTER II

OF TRANSFERS OF PROPERTY BY ACT OF PARTIES

(A)—Transfer of Property, whether moveable or immovable

5. In the following sections "transfer of property" means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself and one or more other living persons, and "to transfer property" is to perform such act

6. Property of any kind may be transferred except as otherwise provided by this Act or by any other law for the time being in force

(a) The chance of an heir-apparent succeeding to an estate, the chance of a relation obtaining a legacy on the death of a kinsman, or any other mere possibility of a like nature, cannot be transferred

(b) A mere right of re-entry for breach of a condition subsequent cannot be transferred to any one except the owner of the property affected thereby

(c) An easement cannot be transferred apart from the dominant heritage

(d) An interest in property restricted in its enjoyment to the owner personally cannot be transferred by him

(e) A mere right to sue for compensation for a fraud or for harm illegally caused cannot be transferred.

(f) A public office cannot be transferred, nor can the salary of a public officer, whether before or after it has become payable

(g) Stipends allowed to military and civil pensioners of Government and political pensions cannot be transferred

(h) No transfer can be made (1) in so far as it is opposed to the nature of the interest affected thereby, or (2) for an illegal purpose, or (3) to a person legally disqualified to be transferee.

7. Every person competent to contract and entitled to transferable property, or authorized to dispose of transferable property not his own, is competent to transfer such property either wholly or in part and either absolutely or conditionally in the circumstances, to the extent and in the manner, allowed and prescribed by any law for the time being in force.

8. Unless a different intention is expressed or necessarily implied, a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof

Such incidents include, where the property is land, the easements annexed thereto, the rents and profits thereof accruing after the transfer, and all things attached to the earth,

and, where the property is machinery attached to the earth, the moveable parts thereof,

and, where the property is a house, the easements annexed thereto, the rent thereof accruing after the transfer, and the locks, keys, bars, doors, windows and all other things provided for permanent use therewith,

and where the property is a debt or other actionable claim, the securities therefor (except where they are also for other debts or claims not transferred to the transferee), but not arrears of interest accrued before the transfer,

and, where the property is money or other property yielding income, the interest or income thereof accruing after the transfer takes effect

9. A transfer of property may be made without writing in every case in which a writing is not expressly required by law.

10. Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him provided that property may be transferred to or for the benefit of a woman (not being a Hindu Muhammadan or Buddhist), so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein.

11. Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction.

Nothing in this section shall be deemed to affect the right to restrain, for the beneficial enjoyment of one piece of immovable property, the enjoyment of another piece of such property, or to compel the enjoyment thereof in a particular manner.

12. Where property is transferred subject to a condition or limitation making any interest therein, reserved or given to or for the benefit of any person,

Condition making interest determinable on insolvency or attempt at alienation.

to cease on his becoming insolvent or endeavouring to transfer or dispose of the same, such condition or limitation is void.

Nothing in this section applies to a condition in a lease for the benefit of the lessor or those claiming under him.

13. Where, on a transfer of property, an interest therein is created for the

Transfer for benefit of unborn person.

benefit of a person not in existence at the date of the transfer, subject to a prior interest

created by the same transfer the interest created for the benefit of such person shall not take effect, unless it extends to the whole of the remaining interest of the transferor in the property.

Illustration.

A transfers property of which he is the owner to B in trust for A and his intended wife successively for their lives, and after the death of the survivor for the eldest son of the intended marriage for life, and after his death for A's second son. The interest so created for the benefit of the eldest son does not take effect, because it does not extend to the whole of A's remaining interest in the property.

14. No transfer of property can operate to create

Rule against perpetuity.

an interest which is to take effect after the life-time of one or more persons living at

the date of such transfer, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the interest created is to belong.

15. If, on a transfer of property, an interest

Transfer to class some of whom come under sections 13 and 14

therein is created for the benefit of a class of persons with regard to some of whom

such interest fails by reason of any of the rules contained in sections thirteen and fourteen, such interest fails as regards the whole class.

16. Where an interest fails by reason of any

Transfer to take effect on failure of prior transfer.

of the rules contained in sections thirteen, fourteen and fifteen, any interest created

in the same transaction and intended to take effect after or upon failure of such prior interest also fails.

17. The restrictions in sections fourteen, fifteen

Transfer in perpetuity for benefit of public

and sixteen shall not apply to property transferred for the benefit of the public in the

advancement of religion, knowledge, commerce, health, safety or any other object beneficial to mankind.

18. Where the terms of a transfer of property

Direction for accumulation.

direct that the income arising from the property shall be accumulated, such direction

shall be void, and the property shall be disposed of as if no accumulation had been directed.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the date of the transfer, the direction shall be valid in respect only of the income arising from the property within one year next following such date; and at the end of the year such property and income shall be disposed of respectively as if the period during which the accumulation has been directed to be made had elapsed.

19. Where, on a transfer of property, an interest

Vested interest.

therein is created in favour of a person without specifying

the time when it is to take effect, or in terms specifying that it is to take effect forthwith or on the happening of an event which must happen, such interest is vested, unless a contrary intention appears from the terms of the transfer.

A vested interest is not defeated by the death of the transferee before he obtains possession.

Explanation.—An intention that an interest shall not be vested is not to be inferred merely from a provision whereby the enjoyment thereof is postponed, or whereby a prior interest in the same property is given or reserved to some other person, or whereby income arising from the property is directed to be accumulated until the time of enjoyment arrives, or from a provision that if a particular event shall happen the interest shall pass to another person.

20. Where, on a transfer of property, an interest

When unborn person acquires vested interest on transfer for his benefit.

therein is created for the benefit of a person not then living, he acquires upon

his birth, unless a contrary intention appear from the terms of the transfer, a vested interest, although he may not be entitled to the enjoyment thereof immediately on his birth.

21. Where, on a transfer of property, an interest

Contingent interest.

therein is created in favour of a person to take effect only

on the happening of a specified uncertain event, or if a specified uncertain event shall not happen, such person thereby acquires a contingent interest in the property. Such interest becomes a vested interest, in the former case, on the happening of the event, in the latter, when the happening of the event becomes impossible.

Exception.—Where, under a transfer of property, a person becomes entitled to an interest therein upon attaining a particular age, and the transferor also gives to him absolutely the income to arise from such interest before he reaches that age, or directs the income or so much thereof as may be necessary to be applied for his benefit, such interest is not contingent.

22. Where, on a transfer of property, an interest

Transfer to members of a class who attain a particular age.

therein is created in favour of such members only of a class

as shall attain a particular age, such interest does not vest in any member of the class who has not attained that age.

23. Where, on a transfer of property, an interest

Transfer contingent on happening of specified uncertain event

therein is to accrue to a specified person if a specified uncertain event shall

happen, and no time is mentioned for the occurrence of that event, the interest fails unless such event happens before, or at the same time as, the intermediate or precedent interest ceases to exist.

24. Where, on a transfer of property, an interest

Transfer to such of certain persons as survive at some period not specified.

therein is to accrue to such of certain persons as shall

be surviving at some period, but the exact period is not specified, the interest shall go to such of them as shall be alive when the intermediate or precedent interest ceases to

exist, unless a contrary intention appears from the terms of the transfer.

Illustration.

A transfers property to B for life, and after his death to C and D, equally to be divided between them, or to the survivor of them. C dies during the life of B. D survives B. At B's death the property passes to D.

25 An interest created on a transfer of property and dependent upon a condition fails if the fulfilment of the condition is impossible, or is forbidden by law, or is of such a nature that, if permitted, it would defeat the provisions of any law, or is fraudulent or involves or implies injury to the person or property of another, or the Court regards it as immoral or opposed to public policy.

Illustrations

- (a) A lets a farm to B on condition that he shall walk a hundred miles in a hour. The lease is void.
 (b) A gives Rs. 500 to B on condition that he shall marry A's daughter C. At the date of the transfer C was dead. The transfer is void.
 (c) A transfers Rs. 500 to B on condition that she shall murder C. The transfer is void.
 (d) A transfers Rs. 500 to his niece C if she will desert her husband. The transfer is void.

26 Where the terms of a transfer of property impose a condition to be fulfilled before a person can take an interest in the property, the condition shall be deemed to have been fulfilled if it has been substantially complied with.

Illustrations

- (a) A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D and E. E dies. B marries with the consent of C and D. B is deemed to have fulfilled the condition.
 (b) A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D and E. B marries without the consent of C, D and E but obtains their consent after the marriage. B has not fulfilled the condition.

27. Where, on a transfer of property, an interest therein is created in favour of one person, and by the same transaction an ulterior disposition of the same interest is made in favour of another, if the prior disposition under the transfer shall fail, the ulterior disposition shall take effect upon the failure of the prior disposition, although the failure may not have occurred in the manner contemplated by the transferor.

But where the intention of the parties to the transaction is that the ulterior disposition shall take effect only in the event of the prior disposition failing in a particular manner, the ulterior disposition shall not take effect unless the prior disposition fails in that manner.

Illustrations

- (a) A transfers Rs. 500 to B on condition that he shall execute a certain lease within three months after A's death, and if he should neglect to do so to C. B dies in A's lifetime. The disposition in favour of C takes effect.
 (b) A transfers property to his wife, but in case she should die in his life time, transfers to B that which he had transferred to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The disposition in favour of B does not take effect.

28. On a transfer of property an interest therein may be created to accrue to any person with the condition superadded that in case a specified uncertain event shall

happen such interest shall pass to another person, or that in case a specified uncertain event shall not happen such interest shall pass to another person. In each case the dispositions are subject to the rules contained in sections ten, twelve, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five and twenty-seven.

29 An ulterior disposition of the kind contemplated by the last preceding section cannot take effect unless the condition is strictly fulfilled.

Illustration.

A transfers Rs. 500 to B, to be paid to him on his attaining his majority or marrying with a proviso that, if B dies a minor or marries without C's consent, the Rs. 500 shall go to D. B marries when only 17 years of age, without C's consent. The transfer to D takes effect.

Prior disposition not affected by invalidity of ulterior disposition

30. If the ulterior disposition is not valid, the prior disposition is not affected by it.

Illustration.

A transfers a farm to B for her life, and, if she do not desert her husband, to C. B is entitled to the farm during her life as if no condition had been inserted.

31. Subject to the provisions of section twelve, on a transfer of property an interest therein may be created with the condition superadded that it shall cease to exist in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Illustrations.

- (a) A transfers a farm to B for his life, with a proviso that in case B cuts down a certain wood the transfer shall cease to have any effect. B cuts down the wood. He loses his life interest in the farm.
 (b) A transfers a farm to B, provided that, if B shall not go to England within three years after the date of the transfer, his interest in the farm shall cease. B does not go to England within the term prescribed. His interest in the farm ceases.

32. In order that a condition that an interest shall cease to exist may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of the creation of an interest.

33. Where, on a transfer of property, an interest therein is created subject to a condition that the person taking it shall perform a certain act, but no time is specified for the performance of the act, the condition is broken when he renders impossible, permanently or for an indefinite period, the performance of the act.

34. Where an act is to be performed by a person either as a condition to be fulfilled before an interest created on a transfer of property is enjoyed by him, or as a condition on the non-fulfilment of which the interest is to pass from him to another person, and a time is specified for the performance of the act, if such performance within the specified time is prevented by the fraud of a person who would be directly benefited by non-fulfilment of the condition, such further time shall as against him be allowed for performing the act as shall be requisite to make up for the delay.

caused by such fraud. But if no time is specified for the performance of the act, then, if its performance is by the fraud of a person interested in the non-fulfilment of the condition rendered impossible or indefinitely postponed, the condition shall as against him be deemed to have been fulfilled.

Election.

35. Where a person professes to transfer property which he has no right to transfer, and as part of the same transaction confers any benefit on the owner of the property, such owner must elect either to confirm such transfer or to dissent from it; and in the latter case he shall relinquish the benefit so conferred, and the benefit so relinquished shall revert to the transferor or his representative as if it had not been disposed of, subject nevertheless,

where the transfer is gratuitous, and the transferor has, before the election died or otherwise become incapable of making a fresh transfer, and in all cases where the transfer is for consideration,

to the charge of making good to the disappointed transferee the amount or value of the property attempted to be transferred to him.

Illustration.

The farm of Sultānpur is the property of C and worth Rs. 800. A by an instrument of gift professes to transfer it to B, giving by the same instrument Rs. 1,000 to C. C elects to retain the farm. He forfeits the gift of Rs. 1,000.

In the same case, A dies before the election. His representative must out of the Rs. 1,000 pay Rs. 800 to B.

The rule in the first paragraph of this section applies whether the transferor does or does not believe that which he professes to transfer to be his own.

A person taking no benefit directly under a transaction, but deriving a benefit under it indirectly, need not elect.

A person who in his one capacity takes a benefit under the transaction may in another dissent therefrom.

Exception to the last preceding four rules.—Where a particular benefit is expressed to be conferred on the owner of the property which the transferor professes to transfer, and such benefit is expressed to be in lieu of that property, if such owner claim the property, he must relinquish the particular benefit, but he is not bound to relinquish any other benefit conferred upon him by the same transaction.

Acceptance of the benefit by the person on whom it is conferred constitutes an election by him to confirm the transfer, if he is aware of his duty to elect and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives enquiry into the circumstances.

Such knowledge or waiver shall, in the absence of evidence to the contrary, be presumed, if the person on whom the benefit has been conferred has enjoyed it for two years without doing any act to express dissent.

Such knowledge or waiver may be inferred from any act of his which renders it impossible to place the persons interested in the property professed to be transferred in the same condition as if such act had not been done.

Illustration.

A transfers to B an estate to which C is entitled, and as part of the same transaction gives C a coal-mine. C takes possession of the mine and exhausts it. He has thereby confirmed the transfer of the estate to B.

If he does not within one year after the date of the transfer signify to the transferor or his representatives his intention to confirm or to dissent from the transfer, the transferor or his representatives may, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the transfer.

In case of disability, the election shall be postponed until the disability ceases, or until the election is made by some competent authority.

Apportionment.

36. In the absence of a contract or local usage to the contrary, all rents, annuities, pensions, dividends and other periodical payments in the nature of income shall, upon the transfer of the interest of the person entitled to receive such payments, be deemed, as between the transferor and the transferee, to accrue due from day to day, and to be apportionable accordingly, but to be payable on the days appointed for the payment thereof.

37. When, in consequence of a transfer, property is divided and held in several shares, and thereupon the benefit of any obligation relating to the property as a whole passes from one to several owners of the property, the corresponding duty shall, in the absence of a contract to the contrary amongst the owners, be performed in favour of each of such owners in proportion to the value of his share in the property, provided that the duty can be severed and that the severance does not substantially increase the burden of the obligation; but if the duty cannot be severed, or if the severance would substantially increase the burden of the obligation, the duty shall be performed for the benefit of such one of the several owners as they shall jointly designate for that purpose:

Provided that no person on whom the burden of the obligation lies shall be answerable for failure to discharge it in manner provided by this section, unless and until he has had reasonable notice of the severance.

Nothing in this section applies to leases for agricultural purposes unless and until the Local Government by notification in the official Gazette so directs.

Illustrations.

(a). A sells to B, C and D a house situate in a village and leased to E at an annual rent of Rs. 30 and delivery of one fat sheep, B having provided half the purchase-money and C and D one quarter each. E, having notice of this, must pay Rs. 15 to B, Rs. 7½ to C, and Rs. 7½ to D, and must deliver the sheep according to the joint direction of B, C and D.

(b). In the same case, each house in the village being bound to provide ten days' labour each year on a dyke to prevent inundation, E had agreed as a term of his lease to perform this work for A. B, C and D severally require E to perform the ten days' work due on account of the house of each. E is not bound to do more than ten days' work in all, according to such directions as B, C and D may join in giving.

B.—Transfer of Immovable Property.

38. Where any person, authorized only under certain circumstances to transfer, transfers such property for consideration, alleging the existence of such circumstances, they

shall, as between the transferee on the one part and the transferor and other persons (if any) affected by the transfer on the other part, be deemed to have existed, if the transferee, after using reasonable care to ascertain the existence of such circumstances, has acted in good faith.

Illustration.

A, a Hindú widow, whose husband has left collateral heirs, alleging that the property held by her as such is insufficient for her maintenance, agrees, for purposes neither religious nor charitable, to sell a field, part of such property, to B. B satisfies himself by reasonable enquiry that the income of the property is insufficient for A's maintenance, and that the sale of the field is necessary, and, acting in good faith, buys the field from A. As between B on the one part and A and the collateral heirs on the other part, a necessity for the sale shall be deemed to have existed.

39. Where a third person has a right to receive

Transfer where third person is entitled to maintenance, for advancement or marriage, from the profits of immoveable property, and such property is transferred with the intention of defeating such right, the right may be enforced against the transferee, if he has notice of such intention or if the transfer is gratuitous; but not against a transferee for consideration and without notice of the right, nor against such property in his hands.

Illustration.

A, a Hindú, transfers Sultánpur to his sister-in-law B, in lieu of her claim against him for maintenance in virtue of his having become entitled to her deceased husband's property, and agrees with her that, if she is dispossessed of Sultánpur, A will transfer to her an equal area out of such of several other specified villages in his possession as she may elect. A sells the specified villages to C, who buys in good faith, without notice of the agreement. B is dispossessed of Sultánpur. She has no claim on the villages transferred to C.

40. Where, for the more beneficial enjoyment

Burden of obligation imposing restriction on use of land, of his own immoveable property, a third person has, independently of any interest in the immoveable property of another or of any easement thereon, a right to restrain the enjoyment of the latter property or to compel its enjoyment in a particular manner, or

where a third person is entitled to the benefit of an obligation annexed to ownership but not amounting to interest or easement, of contract and annexed to the ownership of immoveable property, but not amounting

to an interest therein or easement thereon, such right or obligation may be enforced against a transferee with notice thereof or a gratuitous transferee of the property affected thereby, but not against a transferee for consideration and without notice of the right or obligation, nor against such property in his hands.

Illustration.

A contracts to sell Sultánpur to B. While the contract is still in force he sells Sultánpur to C, who has notice of the contract. B may enforce the contract against C to the same extent as against A.

41. Where, with the consent, express or implied,

Transfer by ostensible owner. of the persons interested in immoveable property, a person is the ostensible owner of such property and transfers the same for consideration, the transfer shall not be voidable on the ground that the transferor was not authorized to make it: provided that the transferee, after taking reasonable care to

ascertain that the transferor had power to make the transfer, has acted in good faith.

42. Where a person transfers any immoveable

property, reserving power to revoke the transfer, and subsequently transfers the property for consideration to another transferee, such transfer operates in favour of such transferee (subject to any condition attached to the exercise of the power) as a revocation of the former transfer to the extent of the power.

Illustration.

A lets a house to B, and reserves power to revoke the lease if, in the opinion of a specified surveyor, B should make a use of it detrimental to its value. Afterwards A, thinking that such a use has been made, lets the house to C. This operates as a revocation of B's lease subject to the opinion of the surveyor as to B's use of the house having been detrimental to its value.

43. Where a person erroneously represents that

Transfer by unauthorized person who subsequently acquires interest in property transferred. he is authorized to transfer certain immoveable property, and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on any interest which the transferor may acquire in such property, at any time during which the contract of transfer subsists.

Nothing in this section shall impair the right of transferees in good faith for consideration without notice of the existence of the said option.

Illustration.

A, a Hindú who has separated from his father B, sells to C three fields, X, Y and Z, representing that A is authorized to transfer the same. Of these fields Z does not belong to A, it having been retained by B on the partition; but on B's dying A as heir obtains Z. C, not having rescinded the contract of sale, may require A to deliver Z to him:

44. Where one of two or more co-owners of im-

Transfer by one co-owner. moveable property legally competent in that behalf transfers his share of such property or any interest therein, the transferee acquires, as to such share or interest, and so far as is necessary to give effect to the transfer, the transferor's right to joint possession or other common or part enjoyment of the property, and to enforce a partition of the same, but subject to the conditions and liabilities affecting, at the date of the transfer, the share or interest so transferred.

Where the transferee of a share of a dwelling-house belonging to an undivided family is not a member of the family, nothing in this section shall be deemed to entitle him to joint possession or other common or part enjoyment of the house.

45. Where immoveable property is transferred

Joint transfer for consideration to two or more persons, and such consideration is paid out of a fund belonging to them in common, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property identical, as nearly as may be, with the interests to which they were respectively entitled in the fund; and where such consideration is paid out of separate funds belonging to them respectively, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property in proportion to the shares of the consideration which they respectively advanced.

In the absence of evidence as to the interests in the fund to which they were respectively entitled, or

as to the shares which they respectively advanced, such persons shall be presumed to be equally interested in the property.

46. Where immoveable property is transferred

Transfer for consideration by persons having distinct interests therein, the transferors are, in the absence of a contract to the contrary, entitled to share in the consideration equally, where their interests in the property were of equal value, and, where such interests were of unequal value, proportionately to the value of their respective interests.

Illustrations.

(a). A, owning a moiety, and B and C, each a quarter share, of mauza Sultānpur, exchange an eighth share of that mauza for a quarter share of mauza Lālpura. There being no agreement to the contrary, A is entitled to an eighth share in Lālpura, and B and C each to a sixteenth share in that mauza.

(b). A, being entitled to a life-interest in mauza Atrali and B and C to the reversion, sell the mauza for Rs. 1,000. A's life-interest is ascertained to be worth Rs. 600, the reversion Rs. 400. A is entitled to receive Rs. 600 out of the purchase-money, B and C to receive Rs. 400.

47. Where several co-owners of immoveable property

Transfer by co-owners of share in common property. Transfer a share therein without specifying that the transfer is to take effect on any particular share or shares of the transferors, the transfer, as among such transferors, takes effect on such shares equally where the shares were equal, and where they were unequal, proportionately to the extent of such shares.

Illustration.

A, the owner of an eight-anna share, and B and C, each the owner of a four-anna share, in mauza Sultānpur, transfer a two-anna share in the mauza to D, without specifying from which of their several shares the transfer is made. To give effect to the transfer one-anna share is taken from the share of A, and half an anna share from each of the shares of B and C.

48. Where a person purports to create by transfer

Priority of rights created by transfer. at different times rights in or over the same immoveable property, and such rights cannot all exist or be exercised to their full extent together, each later created right shall, in the absence of a special contract or reservation binding the earlier transferees, be subject to the rights previously created.

49. Where immoveable property is transferred

Transferee's right under policy. for consideration, and such property or any part thereof is at the date of the transfer insured against loss or damage by fire, the transferee, in case of such loss or damage, may, in the absence of a contract to the contrary, require any money which the transferor actually receives under the policy, or so much thereof as may be necessary, to be applied in reinstating the property.

50. No person shall be chargeable with any rents

Rent bona fide paid to holder under defective title. or profits of any immoveable property, which he has in good faith paid or delivered to any person of whom he in good faith held such property, notwithstanding it may afterwards appear that the person to whom such payment or delivery was made had no right to receive such rents or profits.

Illustration.

A lets a field to B at a rent of Rs. 50, and then transfers the field to C. B, having no notice of the transfer, in good faith pays the rent to A. B is not chargeable with the rent so paid.

51. When the transferee of immoveable property

Improvements made by bona fide holders under defective titles. makes any improvement on the property, believing in good faith that he is absolutely entitled thereto, and he is subsequently evicted therefrom by any person having a better title, the transferee has a right to require the person causing the eviction either to have the value of the improvement estimated and paid or secured to the transferee, or to sell his interest in the property to the transferee at the then market value thereof irrespective of the value of such improvement.

The amount to be paid or secured in respect of such improvement shall be the estimated value thereof at the time of the eviction.

When, under the circumstances aforesaid, the transferee has planted or sown on the property crops which are growing when he is evicted therefrom, he is entitled to such crops and to free ingress and egress to gather and carry them.

52. During the active prosecution in any Court

Transfer of property pending suit relating thereto. having authority in British India, or established beyond the limits of British India by the Governor General in Council, of a contentious suit or proceeding in which any right to immoveable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose.

53. Every transfer of immoveable property,

Fraudulent transfer. made with intent to defraud prior or subsequent transferees thereof for consideration, or co-owners or other persons having an interest in such property, or to defeat or delay the creditors of the transferor, is voidable at the option of any person so defrauded, defeated or delayed.

Where the effect of any transfer of immoveable property is to defraud, defeat or delay any such person, and such transfer is made gratuitously or for a grossly inadequate consideration, the transfer may be presumed to have been made with such intent as aforesaid.

Nothing contained in this section shall impair the rights of any transferee in good faith and for consideration.

CHAPTER III.

OF SALES OF IMMOVEABLE PROPERTY.

54. "Sale" is a transfer of ownership in exchange for a price paid or

"Sale" defined. promised or part-paid and part-promised.

Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and

Sale how made. upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

A contract for the sale of immoveable property is a contract that a sale of such property shall take

place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.

55. In the absence of a contract to the contrary,

Rights and liabilities of buyer and seller.

the buyer and the seller of immoveable property respectively are subject to the liabilities, and have the rights, mentioned in the rules next following, or such of them as are applicable to the property sold :

(1) The seller is bound—

(a) to disclose to the buyer any material defect in the property of which the seller is, and the buyer is not, aware, and which the buyer could not with ordinary care discover ;

(b) to produce to the buyer on his request for examination all documents of title relating to the property which are in the seller's possession or power ;

(c) to answer to the best of his information all relevant questions put to him by the buyer in respect to the property or the title thereto ;

(d) on payment or tender of the amount due in respect of the price, to execute a proper conveyance of the property when the buyer tenders it to him for execution at a proper time and place ;

(e) between the date of the contract of sale and the delivery of the property, to take as much care of the property and all documents of title relating thereto which are in his possession, as an owner of ordinary prudence would take of such property and documents ;

(f) to give, on being so required, the buyer, or such person as he directs, such possession of the property as its nature admits ;

(g) to pay all public charges and rent accrued due in respect of the property up to the date of the sale, the interest on all incumbrances on such property due on such date, and, except where the property is sold subject to incumbrances, to discharge all incumbrances on the property then existing.

(2) The seller shall be deemed to contract with the buyer that the interest which the seller professes to transfer to the buyer subsists and that he has power to transfer the same :

provided that, where the sale is made by a person in a fiduciary character, he shall be deemed to contract with the buyer that the seller has done no act whereby the property is incumbered or whereby he is hindered from transferring it.

The benefit of the contract mentioned in this rule shall be annexed to, and shall go with, the interest of the transferee as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

(3) Where the whole of the purchase-money has been paid to the seller, he is also bound to deliver to the buyer all documents of title relating to the property which are in the seller's possession or power :

provided that (a), where the seller retains any part of the property comprised in such documents, he is entitled to retain them all, and (b), where the whole of such property is sold to different buyers, the buyer of the lot of greatest value is entitled to such documents. But in case (a) the seller, and in case (b) the buyer of the lot of greatest value, is bound, upon every reasonable request by the buyer, or by any of the other buyers, as the case may be, and at the cost of the person making the request, to produce the said documents and furnish such true copies thereof or extracts therefrom as he may require ; and in the meantime, the seller, or the buyer of the lot of greatest value, as the case may be, shall keep the said documents safe, uncanceled and undamaged, unless prevented from so doing by fire or other inevitable accident ;

(4) The seller is entitled—

(a) to the rents and profits of the property till the ownership thereof passes to the buyer ;

(b) where the ownership of the property has passed to the buyer before payment of the whole of the purchase-money, to a charge upon the property in the hands of the buyer for the amount of the purchase-money, or any part thereof remaining unpaid, and for interest on such amount or part.

(5) The buyer is bound—

(a) to disclose to the seller any fact as to the nature or extent of the seller's interest in the property of which the buyer is aware, but of which he has reason to believe that the seller is not aware, and which materially increases the value of such interest ;

(b) to pay or tender, at the time and place of completing the sale, the purchase-money to the seller or such person as he directs : provided that, where the property is sold free from incumbrances, the buyer may retain out of the purchase-money the amount of any incumbrances on the property existing at the date of the sale, and shall pay the amount so retained to the persons entitled thereto ;

(c) where the ownership of the property has passed to the buyer, to bear any loss arising from the destruction, injury or decrease in value of the property not caused by the seller ;

(d) where the ownership of the property has passed to the buyer, as between himself and the seller, to pay all public charges and rent which may become payable in respect of the property, the principal moneys due on any incumbrances subject to which the property is sold, and the interest thereon afterwards accruing due.

(6) The buyer is entitled—

(a) where the ownership of the property has passed to him, to the benefit of any improvement in, or increase in value of, the property, and to the rents and profits thereof ;

(b) unless he has improperly declined to accept delivery of the property, to a charge on the property, as against the seller and all persons claiming under him with notice of the payment, to the extent of the seller's interest in the property, for the amount of any purchase-money properly paid by the buyer in anticipation of the delivery and for interest on such amount ; and, when he properly declines to accept the delivery, also for the earnest (if any) and for the costs (if any) awarded to him of a suit to compel specific performance of the contract or to obtain a decree for its rescission.

An omission to make such disclosures as are mentioned in this section, paragraph (1), clause (a), and paragraph (5), clause (a), is fraudulent.

56. Where two properties are subject to a common charge, and one of the properties is sold, the buyer is, as against the seller, in the absence of a contract to the contrary, entitled to have the charge satisfied out of the other property, so far as such property will extend.

Discharge of Incumbrances on Sale.

57. (a) Where immovable property subject to any incumbrance, whether for incumbrances, and immediately payable or not, is sold by the Court or in execution of a decree, or out of court, the Court may, if it thinks fit, on the application of any party to the sale, direct or allow payment into court,

(1) in case of an annual or monthly sum charged on the property, or of a capital sum charged on a determinable interest in the property, —of such amount as, when invested in securities of the Government of India, the Court considers will be sufficient, by means of the interest thereof, to keep down or otherwise provide for that charge, and

(2) in any other case of a capital sum charged on the property,—of the amount sufficient to meet the incumbrance and any interest due thereon.

But in either case there shall also be paid into court such additional amount as the Court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency, except depreciation of investments, not exceeding one-tenth part of the original amount to be paid in, unless the Court for special reasons (which it shall record) thinks fit to require a larger additional amount.

(b) Thereupon the Court may, if it thinks fit, and after notice to the incumbrancer, unless the Court, for reasons to be recorded in writing, thinks fit to dispense with such notice, declare the property to be freed from the incumbrance, and make any order for conveyance, or vesting order, proper for giving effect to the sale, and give directions for the retention and investment of the money in court.

(c) After notice served on the persons interested in or entitled to the money or fund in court, the Court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

(d) An appeal shall lie from any declaration, order or direction under this section as if the same were a decree.

(e) In this section "Court" means (1) a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, (2) the Court of a District Judge within the local limits of whose jurisdiction the property or any part thereof is situate, (3) any other Court which the Local Government may, from time to time, by notification in the official Gazette, declare to be competent to exercise the jurisdiction conferred by this section.

CHAPTER IV.

OF MORTGAGES OF IMMOVABLE PROPERTY AND CHARGES.

58. (a). A mortgage is the transfer of an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

(b). Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money, and agrees, expressly or impliedly, that, in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage-money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee.

(c). Where the mortgagor ostensibly sells the mortgaged property—

on condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or

on condition that on such payment being made the sale shall become void, or

on condition that on such payment being made the buyer shall transfer the property to the seller, the transaction is called a mortgage by conditional sale and the mortgagee a mortgagee by conditional sale.

(d). Where the mortgagor delivers possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property and to appropriate them in lieu of interest, or in payment of the mortgage-money, or partly in lieu of interest and partly in payment of the mortgage-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee.

(e). Where the mortgagor binds himself to repay the mortgage-money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed, the transaction is called an English mortgage.

59. Where the principal money secured is one hundred rupees or upwards, a mortgage can be effected only by a registered instrument signed by the mortgagor and attested by at least two witnesses.

Where the principal money secured is less than one hundred rupees, a mortgage may be effected either by an instrument signed and attested as aforesaid, or (except in the case of a simple mortgage) by delivery of the property.

Nothing in this section shall be deemed to render invalid mortgages made in the towns of Calcutta, Madras, Bombay, Karachi and Rangoon, by delivery to a creditor or his agent of documents of title to immoveable property, with intent to create a security thereon.

Rights and Liabilities of Mortgagor.

60. At any time after the principal money has become payable, the mortgagor has a right, on payment or tender, at a proper

Right of mortgagor to redeem.

time and place, of the mortgage-money, to require the mortgagee (a) to deliver the mortgage-deed, if any, to the mortgagor, (b) where the mortgagee is in possession of the mortgaged property, to deliver possession thereof to the mortgagor, and (c) at the cost of the mortgagor either to re-transfer the mortgaged property to him or to such third person as he may direct, or to execute and (where the mortgage has been effected by a registered instrument) to have registered an acknowledgment in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished:

Provided that the right conferred by this section has not been extinguished by act of the parties or by order of a Court.

The right conferred by this section is called a right to redeem, and a suit to enforce it is called a suit for redemption.

Nothing in this section shall be deemed to render invalid any provision to the effect that, if the time fixed for payment of the principal money has been allowed to pass or no such time has been fixed, the mortgagee shall be entitled to reasonable notice before payment or tender of such money.

Nothing in this section shall entitle a person interested in a share only of the mortgaged property to

Redemption of portion of mortgaged property.

redeem his own share only, on payment of a proportionate part of the amount remaining due on the mortgage, except where a mortgagee, or, if there are more mortgagees than one, all such mortgagees, has or have acquired, in whole or in part, the share of a mortgagor.

61. A mortgagor seeking to redeem any one mortgage shall, in the ab-

Right to redeem one of two properties separately mortgaged.

sence of a contract to the contrary, be entitled to do so without paying any money due under any separate mortgage made by him, or by any person through whom he claims, on property other than that comprised in the mortgage which he seeks to redeem.

Illustration.

A, the owner of farms Z and Y, mortgages Z to B for Rs. 1,000. A afterwards mortgages Y to B for Rs. 1,000, making no stipulation as to any additional charge on Z. A may institute a suit for the redemption of the mortgage on Z alone.

62. In the case of a usufructuary mortgage, the mortgagor has a right

Right of usufructuary mortgagor to recover possession.

to recover possession of the property—

(a) where the mortgagee is authorized to pay himself the mortgage-money from the rents and profits of the property,—when such money is paid;

(b) where the mortgagee is authorized to pay himself from such rents and profits the interest of the principal money,—when the term (if any), prescribed for the payment of the mortgage

money has expired and the mortgagor pays or tenders to the mortgagee the principal money or deposits it in court as hereinafter provided.

63. Where mortgaged property in possession of the mortgagee has, during the continuance of the mortgage, received any acce-

Accession to mortgaged property

sion, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled as against the mortgagee to such accession.

Where such accession has been acquired at the expense of the mortgagee, and is capable of separate pos-

Accession acquired in virtue of transferred ownership.

session or enjoyment without detriment to the principal property, the mortgagor desiring to take the accession must pay to the mortgagee the expense of acquiring it. If such separate possession or enjoyment is not possible, the accessions must be delivered with the property, the mortgagor being liable, in the case of an acquisition necessary to preserve the property from destruction, forfeiture or sale, or made with his assent, to pay the proper cost thereof, as an addition to the principal money, at the same rate of interest.

In the case last mentioned the profits, if any, arising from the accession shall be credited to the mortgagor.

Where the mortgage is usufructuary and the accession has been acquired at the expense of the mortgagee, the profits, if any, arising from the accession shall, in the absence of a contract to the contrary, be set off against interest, if any, payable on the money so expended.

64. Where the mortgaged property is a lease

Renewal of mortgaged lease.

for a term of years, and the mortgagee obtains a renewal of the lease, the mortgagor, upon redemption, shall, in the absence of a contract by him to the contrary, have the benefit of the new lease.

65. In the absence of a contract to the con-

Implied contracts by mortgagor.

trary, the mortgagor shall be deemed to contract with the mortgagee,

(a) that the interest which the mortgagor professes to transfer to the mortgagee subsists, and that the mortgagor has power to transfer the same;

(b) that the mortgagor will defend, or, if the mortgagee be in possession of the mortgaged property, enable him to defend, the mortgagor's title thereto;

(c) that the mortgagor will, so long as the mortgagee is not in possession of the mortgaged property, pay all public charges accruing due in respect of the property;

(d) and, where the mortgaged property is a lease for a term of years, that the rent payable under the lease, the conditions contained therein, and the contracts binding on the lessee have been paid, performed and observed down to the commencement of the mortgage; and that the mortgagor will, so long as the security exists and the mortgagee is not in possession of the mortgaged property, pay the rent reserved by the lease, or, if the lease be renewed, the renewed lease, perform the conditions contained therein and observe the contracts binding on the lessee, and indemnify the mortgagee against all claims sustained by reason of the non-payment of the said rent or the non-performance or non-observance of the said conditions and contracts;

(e) and, where the mortgage is a second or subsequent incumbrance on the property, that the mortgagor will pay the interest from time to time accruing due on each prior incumbrance as and when it becomes due, and will at the proper time discharge the principal money due on such prior incumbrance.

Nothing in clause (c), or in clause (d), so far as it relates to the payment of future rent, applies in the case of an usufructuary mortgage.

The benefit of the contracts mentioned in this section shall be annexed to and shall go with the interest of the mortgagee as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

66. A mortgagor in possession of the mortgaged

property is not liable to the mortgagee for allowing the property to deteriorate; but he must not commit any act which is destructive or permanently injurious thereto, if the security is insufficient or will be rendered insufficient by such act.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Rights and Liabilities of Mortgagee.

67. In the absence of a contract to the con-

trary, the mortgagee has, at any time after the mortgage-money has become payable to him, and before a decree has been made for the redemption of the mortgaged property, or the mortgage-money has been paid or deposited as hereinafter provided, a right to obtain from the Court an order that the mortgagor shall be absolutely debarred of his right to redeem the property, or an order that the property be sold.

A suit to obtain an order that a mortgagor shall be absolutely debarred of his right to redeem the mortgaged property is called a suit for foreclosure.

Nothing in this section shall be deemed—

(a) to authorize a simple mortgagee as such to institute a suit for foreclosure, or an usufructuary mortgagee as such to institute a suit for foreclosure or sale, or a mortgagee by conditional sale as such to institute a suit for sale; or

(b) to authorize a mortgagor who holds the mortgagee's rights as his trustee or legal representative, and who may sue for a sale of the property, to institute a suit for foreclosure; or

(c) to authorize the mortgagees of a railway, canal or other work in the maintenance of which the public are interested, to institute a suit for foreclosure or sale; or

(d) to authorize a person interested in part only of the mortgage-money to institute a suit relating only to a corresponding part of the mortgaged property, unless the mortgagees have, with the consent of the mortgagor, severed their interests under the mortgage.

68. The mortgagee has a right to sue the

mortgagor for the mortgage-money in the following cases only:—

(a) where the mortgagor binds himself to repay the same:

(b) where the mortgagee is deprived of the whole or part of his security by or in consequence of the wrongful act or default of the mortgagor:

(c) where, the mortgagee being entitled to possession of the property, the mortgagor fails to deliver the same to him, or to secure the possession thereof to him without disturbance by the mortgagor or any other person.

Where, by any cause other than the wrongful act or default of the mortgagor or mortgagee, the mortgaged property has been wholly or partially destroyed, or the security is rendered insufficient as defined in section sixty-six, the mortgagee may require the mortgagor to give him within a reasonable time another sufficient security for his debt, and, if the mortgagor fails so to do, may sue him for the mortgage-money.

69. A power conferred by the mortgage-deed

on the mortgagee, or on any person on his behalf, to sell or concur in selling, in default of payment of the mortgage-money, the mortgaged property, or any part thereof, without the intervention of the Court, is valid in the following cases (namely)—

(a) where the mortgage is an English mortgage, and neither the mortgagor nor the mortgagee is a Hindú, Muhammadan or Buddhist;

(b) where the mortgagee is the Secretary of State for India in Council;

(c) where the mortgaged property or any part thereof is situate within the towns of Calcutta, Madras, Bombay, Karachi or Rangoon.

But no such power shall be exercised unless and until—

(1) notice in writing requiring payment of the principal money has been served on the mortgagor, or on one of several mortgagors, and default has been made in payment of the principal money, or of part thereof, for three months after such service; or

(2) some interest under the mortgage amounting at least to five hundred rupees is in arrear and unpaid for three months after becoming due.

When a sale has been made in professed exercise of such a power, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorise the sale, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised; but any person damaged by an unauthorized, or improper, or irregular exercise of the power shall have his remedy in damages against the person exercising the power.

The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances if any, to which the sale is not made subject, or after payment into court under section fifty-seven of a sum to meet any prior incumbrance, shall, in the absence of a contract to the contrary, be held by him in trust to be applied by him, first, in payment of all costs, charges and expenses properly incurred by him as incident to the sale or any attempted sale; and, secondly, in discharge of the mortgage-money and costs and other money, if any, due under the mortgage; and the residue of the money so received shall be paid to the person entitled to the mortgaged property or authorized to give receipts for the proceeds of the sale thereof.

Nothing in the former part of this section applies to powers conferred before this Act comes into force.

The powers and provisions contained in sections six to nineteen (both inclusive) of the Trustees and Mortgagees' Powers Act, 1866, shall be deemed to apply to English mortgages, wherever in British India the mortgaged property may be situate, when neither the mortgagor nor the mortgagee is a Hindú, Muhammadan or Buddhist.

70. If, after the date of a mortgage, any accession is made to the mortgaged property, the mortgagee, in the absence of a contract to the contrary, shall, for the purposes of the security, be entitled to such accession.

Accession to mortgaged property.

Illustrations.

(a). A mortgages to B a certain field bordering on a river. The field is increased by alluvion. For the purposes of his security, B is entitled to the increase.

(b). A mortgages a certain plot of building land to B and afterwards erects a house on the plot. For the purposes of his security, B is entitled to the house as well as the plot.

71. When the mortgaged property is a lease for a term of years, and the mortgagor obtains a renewal of the lease, the mortgagee, in the absence of a contract to the contrary, shall, for the purposes of the security, be entitled to the new lease.

Renewal of mortgaged lease.

72. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property, he may spend such money as is necessary—

(a) for the due management of the property and the collection of the rents and profits thereof;

(b) for its preservation from destruction, forfeiture or sale;

(c) for supporting the mortgagor's title to the property;

(d) for making his own title thereto good against the mortgagor; and,

(e) when the mortgaged property is a renewable leasehold, for the renewal of the lease;

and may, in the absence of a contract to the contrary, add such money to the principal-money, at the rate of interest payable on the principal, and where no such rate is fixed at the rate of nine per cent. per annum.

Where the property is by its nature insurable, the mortgagee may also, in the absence of a contract to the contrary, insure and keep insured against loss or damage by fire the whole or any part of such property; and the premiums paid for any such insurance shall be a charge on the mortgaged property, in addition to the principal money, with the same priority and with interest at the same rate. But the amount of such insurance shall not exceed the amount specified in this behalf in the mortgage-deed or (if no such amount is therein specified) two-thirds of the amount that would be required in case of total destruction to reinstate the property insured.

Nothing in this section shall be deemed to authorize the mortgagee to insure when an insurance of the property is kept up by or on behalf of the mortgagor to the amount in which the mortgagee is hereby authorized to insure.

73. Where mortgaged property is sold through failure to pay arrears of revenue or rent due in respect thereof, the mortgagee has a charge on the surplus, if any, of the proceeds, after payment thereof of the said arrears, for the amount remaining due on the mortgage, unless the sale has been occasioned by some default on his part.

Charge on proceeds of revenue-sale.

74. Any second or other subsequent mortgagee may, at any time after the mortgagee to pay off amount due on the next prior mortgage has become payable, tender such amount to the next prior mortgagee, and such mortgagee is bound to accept such tender and to give a receipt for such amount;

and (subject to the provisions of the law for the time being in force regulating the registration of documents) the subsequent mortgagee shall, on obtaining such receipt, acquire, in respect of the property, all the rights and powers of the mortgagee, as such, to whom he has made such tender.

75. Every second or other subsequent mortgagee has, so far as regards redemption, foreclosure and sale of the mortgaged property, the same rights against the prior mortgagee or mortgagees as his mortgagor has against such prior mortgagee or mortgagees, and the same rights against the subsequent mortgagees (if any) as he has against his mortgagor.

Rights of mesne mortgagee against prior and subsequent mortgagees.

76. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property—

Liabilities of mortgagee in possession.

(a) he must manage the property as a person of ordinary prudence would manage it if it were his own;

(b) he must use his best endeavours to collect the rents and profits thereof;

(c) he must, in the absence of a contract to the contrary, out of the income of the property, pay the Government-revenue, all other charges of a public nature accruing due in respect thereof during such possession and any arrears of rent in default of payment of which the property may be summarily sold;

(d) he must, in the absence of a contract to the contrary, make such necessary repairs of the property as he can pay for out of the rents and profits thereof after deducting from such rents and profits the payments mentioned in clause (c) and the interest on the principal money;

(e) he must not commit any act which is destructive or permanently injurious to the property;

(f) where he has insured the whole or any part of the property against loss or damage by fire, he must, in case of such loss or damage, apply any money which he actually receives under the policy, or so much thereof as may be necessary, in reinstating the property, or, if the mortgagor so directs, in reduction or discharge of the mortgage-money;

(g) he must keep clear, full and accurate accounts of all sums received and spent by him as mortgagee, and, at any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported;

(h) his receipts from the mortgaged property, or, where such property is personally occupied by

him, a fair occupation-rent in respect thereof, shall, after deducting the expenses mentioned in clauses (c) and (d), and interest thereon, be debited against him in reduction of the amount (if any) from time to time due to him on account of interest on the mortgage-money and, so far as such receipts exceed any interest due, in reduction or discharge of the mortgage-money; the surplus, if any, shall be paid to the mortgagor;

(e) when the mortgagor tenders, or deposits in manner hereinafter provided, the amount for the time being due on the mortgage, the mortgagee must, notwithstanding the provisions in the other clauses of this section, account for his gross receipts from the mortgaged property from the date of the tender or from the earliest time when he could take such amount out of court, as the case may be.

If the mortgagee fail to perform any of the duties imposed upon him by this section, he may, when Loss occasioned by his default. accounts are taken in pursuance of a decree made under this chapter, be debited with the loss, if any, occasioned by such failure.

77. Nothing in section seventy-six, clauses (b), (d), (g) and (h), applies to cases where there is a contract between the mortgagee and the mortgagor that the receipts from the mortgaged property shall, so long as the mortgagee is in possession of the property, be taken in lieu of interest on the principal money, or in lieu of such interest and defined portions of the principal.

Priority.

78. Where, through the fraud, misrepresentation or gross neglect of a prior mortgagee, another person has been induced to advance money on the security of the mortgaged property, the prior mortgagee shall be postponed to the subsequent mortgagee.

79. If a mortgage made to secure future advances, the performance of an uncertain amount when engagement or the balance of a maximum is expressed. a running account, expresses the maximum to be secured thereby, a subsequent mortgage of the same property shall, if made with notice of the prior mortgage, be postponed to the prior mortgage in respect of all advances or debts not exceeding the maximum, though made or allowed with notice of the subsequent mortgage.

Illustration.

A mortgages Sultanpur to his bankers, B & Co., to secure the balance of his account with them to the extent of Rs. 10,000. A then mortgages Sultanpur to C, to secure Rs. 10,000. C having notice of the mortgage to B & Co., and C gives notice to B & Co. of the second mortgage. At the date of the second mortgage, the balance due to B & Co. does not exceed Rs. 5,000. B & Co. subsequently advance to A sums making the balance of the account against him exceed the sum of Rs. 10,000. B & Co. are entitled, to the extent of Rs. 10,000, to priority over C.

80. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security. And, except in the case provided for by section seventy-nine, no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any

priority in respect of his security for such subsequent advance.

Marshalling and Contribution.

81. If the owner of two properties mortgages them both to one person and Marshalling securities. then mortgages one of the properties to another person who has not notice of the former mortgage, the second mortgagee is, in the absence of a contract to the contrary, entitled to have the debt of the first mortgagee satisfied out of the property not mortgaged to the second mortgagee so far as such property will extend, but not so as to prejudice the rights of the first mortgagee or of any other person having acquired for valuable consideration an interest in either property.

82. Where several properties, whether of one or several owners, are mortgaged to secure one debt, Contribution to mortgage-debt. such properties are, in the absence of a contract to the contrary, liable to contribute rateably to the debt secured by the mortgage, after deducting from the value of each property the amount of any other incumbrance to which it is subject at the date of the mortgage.

Where, of two properties belonging to the same owner, one is mortgaged to secure one debt and then both are mortgaged to secure another debt, and the former debt is paid out of the former property, each property is, in the absence of a contract to the contrary, liable to contribute rateably to the latter debt after deducting the amount of the former debt from the value of the property out of which it has been paid.

Nothing in this section applies to a property liable under section eighty-one to the claim of the second mortgagee.

Deposit in Court.

83. At any time after the principal money has become payable and before a Power to deposit in court money due on suit for redemption of the mortgage. mortgaged property is barred, the mortgagor, or any other person entitled to institute such suit, may deposit, in any court in which he might have instituted such suit, to the account of the mortgagee, the amount remaining due on the mortgage.

The Court shall thereupon cause written notice of the deposit to be served on the mortgagee, and the mortgagee may, on presenting a petition (verified in manner prescribed by law for the verification of plaints) stating the amount then due on the mortgage, and his willingness to accept the money so deposited in full discharge of such amount, and on depositing in the same court the mortgage-deed if then in his possession or power, apply for and receive the money, and the mortgage-deed so deposited shall be delivered to the mortgagor or such other person as aforesaid.

84. When the mortgagor or such other person as aforesaid has tendered or deposited in court under section eighty-three the amount remaining due on the mortgage, interest on the principal money shall cease from the date of the tender or as soon as the mortgagor or such other person as aforesaid has done all that has to be done by him to enable the mortgagee to take such amount out of court, as the case may be.

Nothing in this section or in section eighty-three shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage-money.

Suits for Foreclosure, Sale or Redemption.

85. Subject to the provisions of the Code of Civil Procedure, section 437, all persons having an interest in the property comprised in a mortgage must be joined as parties to any suit under this chapter relating to such mortgage: Provided that the plaintiff has notice of such interest.

Foreclosure and Sale.

86. In a suit for foreclosure, if the plaintiff succeeds, the Court shall make a decree, ordering that an account be taken of what will be due to the plaintiff for principal and interest on the mortgage, and for his costs of the suit, if any, awarded to him, on the day next hereinafter referred to, or declaring the amount so due at the date of such decree,

and ordering that, upon the defendant paying to the plaintiff or into court the amount so due, on a day within six months from the date of declaring in court the amount so due, to be fixed by the Court, the plaintiff shall deliver up to the defendant, or to such person as he appoints, all documents in his possession or power relating to the mortgaged property, and shall transfer the property to the defendant free from all incumbrances created by the plaintiff or any person claiming under him, or, where the plaintiff claims by derived title, by those under whom he claims; and shall, if necessary, put the defendant into possession of the property; but

that, if the payment is not made on or before the day to be fixed by the Court, the defendant shall be absolutely debarred of all right to redeem the property.

87. If payment is made of such amount and of such subsequent costs as are mentioned in section ninety-four, the defendant shall (if necessary) be put into possession of the mortgaged property.

If such payment is not so made, the plaintiff may apply to the Court for an order that the defendant and all persons claiming through or under him be debarred absolutely of all right to redeem the mortgaged property, and the Court shall then pass such order, and may, if necessary, deliver possession of the property to the plaintiff.

Provided that the Court may, upon good cause shewn, and upon such terms, if any, as it thinks fit, from time to time postpone the day appointed for such payment.

On the passing of an order under the second paragraph of this section the debt secured by the mortgage shall be deemed to be discharged.

In the Code of Civil Procedure, schedule IV, No. 129, for the words "Final decree," the words "Decree absolute" shall be substituted.

88. In a suit for sale, if the plaintiff succeeds, the Court shall pass a decree to the effect mentioned in the first and second paragraphs of section eighty-six, and

also ordering that, in default of the defendant paying as therein mentioned, the mortgaged property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into court and applied in payment of what is so found due to the plaintiff, and that the balance, if any, be paid to the defendant or other persons entitled to receive the same.

In a suit for foreclosure, if the plaintiff succeeds and the mortgage is not a mortgage by conditional sale, the Court may, at the instance of the plaintiff, or of any person interested either in the mortgage-money or in the right of redemption, if it thinks fit, pass a like decree (in lieu of a decree for foreclosure) on such terms as it thinks fit, including, if it thinks fit, the deposit in court of a reasonable sum, fixed by the Court, to meet the expenses of sale and to secure the performance of the terms.

89. If in any case under section eighty-eight the defendant pays to the plaintiff or into court on the day fixed as aforesaid the amount due under the mortgage, the costs, if any, awarded to him and such subsequent costs as are mentioned in section ninety-four, the defendant shall (if necessary) be put in possession of the mortgaged property; but if such payment is not so made, the plaintiff or the defendant, as the case may be, may apply to the Court for an order absolute for sale of the mortgaged property, and the Court shall then pass an order that such property, or a sufficient part thereof, be sold, and that the proceeds of the sale be dealt with as is mentioned in section eighty-eight; and thereupon the defendant's right to redeem and the security shall both be extinguished.

90. When the nett proceeds of any such sale are insufficient to pay the amount due for the time being on the mortgage, if the balance is legally recoverable from the defendant otherwise than out of the property sold, the Court may pass a decree for such sum.

Redemption.

91. Besides the mortgagor, any of the following persons may redeem, or institute a suit for redemption of, the mortgaged property:—

(a) any person (other than the mortgagee of the interest sought to be redeemed) having any interest in or charge upon the property;

(b) any person having any interest in, or charge upon, the right to redeem the property;

(c) any surety for the payment of the mortgage-debt or any part thereof;

(d) the guardian of the property of a minor mortgagor on behalf of such minor;

(e) the committee or other legal curator of a lunatic or idiot mortgagor on behalf of such lunatic or idiot;

(f) the judgment-creditor of the mortgagor, when he has obtained execution by attachment of the mortgagor's interest in the property;

(g) a creditor of the mortgagor who has, in a suit for the administration of his estate, obtained a decree for sale of the mortgaged property.

92. In a suit for redemption, if the plaintiff succeeds, the Court shall pass a decree in redemption-suit. a decree ordering—

that an account be taken of what will be due to the defendant for the mortgage-money and for his costs of the suit, if any, awarded to him, on the day next hereinafter referred to, or declaring the amount so due at the date of such decree ;

that, upon the plaintiff paying to the defendant or into court the amount so due on a day within six months from the date of declaring in court the amount so due, to be fixed by the Court, the defendant shall deliver up to the plaintiff or to such person as he appoints, all documents in his possession or power relating to the mortgaged property, and shall retransfer it to the plaintiff free from the mortgage and from all incumbrances created by the defendant or any person claiming under him, or, when the defendant claims by derived title, by those under whom he claims, and shall, if necessary, put the plaintiff into possession of the mortgaged property ; and

that if such payment is not made on or before the day to be fixed by the Court, the plaintiff shall (unless the mortgage be simple or usufructuary) be absolutely debarred of all right to redeem the property, or (unless the mortgage be by conditional sale) that the property be sold.

93. If payment is made of such amount and of such subsequent costs as are mentioned in section ninety-four, the plaintiff shall, if necessary, be put into possession of the mortgaged property.

If such payment is not so made, the defendant may (unless the mortgage is simple or usufructuary) apply to the Court for an order that the plaintiff and all persons claiming through or under him be debarred absolutely of all right to redeem, or (unless the mortgage is by conditional sale) for an order that the mortgaged property be sold.

If he applies for the former order, the Court shall pass an order that the plaintiff and all persons claiming through or under him be absolutely debarred of all right to redeem the mortgaged property, and may, if necessary, deliver possession of the property to the defendant.

If he applies for the latter order, the Court shall pass an order that such property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into court and applied in payment of what is found due to the defendant, and that the balance be paid to the plaintiff or other persons entitled to receive the same.

On the passing of any order under this section the plaintiff's right to redeem and the security shall, as regards the property affected by the order, both be extinguished :

Provided that the Court may, upon good cause shown, and upon such terms, if any, as it thinks fit, from time to time postpone the day fixed under section ninety-two for payment to the defendant.

94. In finally adjusting the amount to be paid to a mortgagee in case of a redemption or a sale by

the Court under this chapter, the Court shall, unless the conduct of the mortgagee has been such as to disentitle him to costs, add to the mortgage-money such costs of suit as have been properly incurred by him since the decree for foreclosure, redemption or sale up to the time of actual payment.

95. Where one of several mortgagors redeems the mortgaged property and obtains possession thereof, he has a charge on the share of each of the other co-mortgagors in the property for his proportion of the expenses properly incurred in so redeeming and obtaining possession.

Sale of Property subject to prior Mortgage.

96. If any property the sale of which is directed under this chapter is subject to a prior mortgage, the Court may, with the consent of the prior mortgagee, order that the property be sold free from the same, giving to such prior mortgagee the same interest in the proceeds of the sale as he had in the property sold.

97. Such proceeds shall be brought into court and applied as follows:—

first, in payment of all expenses incident to the sale or properly incurred in any attempted sale ;

secondly, if the property has been sold free from any prior mortgage, in payment of whatever is due on account of such mortgage ;

thirdly, in payment of all interest due on account of the mortgage in consequence whereof the sale was directed, and of the costs of the suit in which the decree directing the sale was made ;

fourthly, in payment of the principal money due on account of that mortgage ; and

lastly, the residue (if any) shall be paid to the person proving himself to be interested in the property sold, or, if there be more such persons than one, then to such persons according to their respective interests therein or upon their joint receipt.

Nothing in this section or in section ninety-six shall be deemed to affect the powers conferred by section fifty-seven.

Anomalous Mortgages.

98. In the case of a mortgage not being a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage or an English mortgage, or a combination of the first and third, or the second and third, of such forms, the rights and liabilities of the parties shall be determined by their contract as evidenced in the mortgage-deed, and, so far as such contract does not extend, by local usage.

Attachment of Mortgaged Property.

99. Where a mortgagee in execution of a decree for the satisfaction of any claim, whether arising under the mortgage or not, attaches the mortgaged property, he shall not be entitled to bring such property to sale otherwise than by instituting a suit under section sixty-seven, and he may institute such suit notwithstanding anything contained in the Code of Civil Procedure, section 43.

Charges.

100. Where immoveable property of one person is by act of parties or operation of law made security for the payment of money to another, and the transaction does not amount to a mortgage, the latter person is said to have a charge on the property; and all the provisions hereinbefore contained as to a mortgagor shall, so far as may be, apply to the owner of such property, and the provisions of sections eighty-one and eighty-two and all the provisions hereinbefore contained as to a mortgagee instituting a suit for the sale of the mortgaged property shall, so far as may be, apply to the person having such charge.

Nothing in this section applies to the charge of a trustee on the trust-property for expenses properly incurred in the execution of his trust.

101. Where the owner of a charge or other incumbrance on immoveable property is or becomes absolutely entitled to that property, the charge or incumbrance shall be extinguished, unless he declares, by express words or necessary implication, that it shall continue to subsist, or such continuance would be for his benefit.

Notice and Tender.

102. Where the person on or to whom any notice or tender is to be served or made under this chapter does not reside in the district in which the mortgaged property or some part thereof is situate, service or tender on or to an agent holding a general power-of-attorney from such person or otherwise duly authorized to accept such service or tender shall be deemed sufficient.

Where the person or agent on whom such notice should be served cannot be found in the said district, or is unknown to the person required to serve the notice, the latter person may apply to any Court in which a suit might be brought for redemption of the mortgaged property, and such Court shall direct in what manner such notice shall be served, and any notice served in compliance with such direction shall be deemed sufficient.

Where the person or agent to whom such tender should be made cannot be found within the said district, or is unknown to the person desiring to make the tender, the latter person may deposit in such court as last aforesaid the amount sought to be tendered, and such deposit shall have the effect of a tender of such amount.

103. Where, under the provisions of this chapter, a notice is to be served on person incompetent to contract, or by, or a tender or deposit made, accepted or taken out of court by, any person incompetent to contract, such notice may be served or tender or deposit made, accepted or taken by the legal curator of the property of such person; but where there is no such curator, and it is requisite or desirable in the interests of such person that a notice should be served or a tender or deposit made under the provisions of this chapter, application may be made to any Court in which a suit might be brought for the redemption of the mortgage to appoint a guardian *ad litem* for the purpose of serving or receiving service of such notice, or making or accepting such tender, or making or taking out of court such

deposit, and for the performance of all consequential acts which could or ought to be done by such person if he were competent to contract; and the provisions of Chapter XXXI of the Code of Civil Procedure shall, so far as may be, apply to such application and to the parties thereto and to the guardian appointed thereunder.

104. The High Court may, from time to time, make rules consistent with this Act for carrying out in itself and in the Courts of Civil Judicature, subject to its superintendence, the provisions contained in this chapter.

CHAPTER V.

OF LEASES OF IMMOVEABLE PROPERTY.

105. A lease of immoveable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent.

106. In the absence of a contract or local law or usage to the contrary, a lease of immoveable property for agricultural or manufacturing purposes shall be deemed to be a lease from year to year, terminable, on the part of either lessor or lessee, by six months' notice expiring with the end of a year of the tenancy; and a lease of immoveable property for any other purpose shall be deemed to be a lease from month to month, terminable, on the part of either lessor or lessee, by fifteen days' notice expiring with the end of a month of the tenancy.

Every notice under this section must be in writing, signed by or on behalf of the person giving it, and tendered or delivered either personally to the party who is intended to be bound by it, or to one of his family or servants at his residence, or (if such tender or delivery is not practicable) affixed to a conspicuous part of the property.

107. A lease of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument.

All other leases of immoveable property may be made either by an instrument or by oral agreement.

108. In the absence of a contract or local usage to the contrary, the lessor and the lessee of immoveable property, as against one another, respectively, possess the rights and are subject to the liabilities mentioned in the rules next following, or such of them as are applicable to the property leased:—

A.—Rights and Liabilities of the Lessor.

(a) The lessor is bound to disclose to the lessee any material defect in the property, with reference

its intended use, of which the former is and the latter is not aware, and which the latter could not with ordinary care discover :

(d) the lessor is bound on the lessee's request to put him in possession of the property :

(e) the lessor shall be deemed to contract with the lessee that, if the latter pays the rent reserved by the lease and performs the contracts binding on the lessee, he may hold the property during the time limited by the lease without interruption.

The benefit of such contract shall be annexed to and go with the lessee's interest as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

B.—Rights and Liabilities of the Lessee.

(d) If during the continuance of the lease any accession is made to the property, such accession (subject to the law relating to alluvion for the time being in force) shall be deemed to be comprised in the lease :

(e) if by fire, tempest or flood, or violence of an army or of a mob, or other irresistible force, any material part of the property be wholly destroyed or rendered substantially and permanently unfit for the purposes for which it was let, the lease shall, at the option of the lessee, be void :

Provided that, if the injury be occasioned by the wrongful act or default of the lessee, he shall not be entitled to avail himself of the benefit of this provision :

(f) if the lessor neglects to make, within a reasonable time after notice, any repairs which he is bound to make to the property, the lessee may make the same himself, and deduct the expense of such repairs with interest from the rent, or otherwise recover it from the lessor :

(g) if the lessor neglects to make any payment which he is bound to make, and which, if not made by him, is recoverable from the lessee or against the property, the lessee may make such payment himself, and deduct it with interest from the rent, or otherwise recover it from the lessor :

(h) the lessee may remove, at any time during the continuance of the lease, all things which he has attached to the earth ; provided he leaves the property in the state in which he received it :

(i) when a lease of uncertain duration determines by any means except the fault of the lessee, he or his legal representative is entitled to all the crops planted or sown by the lessee and growing upon the property when the lease determines, and to free ingress and egress to gather and carry them :

(j) the lessee may transfer absolutely or by way of mortgage or sub-lease the whole or any part of his interest in the property, and any transferee of such interest or part may again transfer it. The lessee shall not, by reason only of such transfer, cease to be subject to any of the liabilities attaching to the lease :

nothing in this clause shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue, or the lessee of an estate under the management of a Court of Wards, to assign his interest as such tenant, farmer or lessee :

(k) the lessee is bound to disclose to the lessor any fact as to the nature or extent of the interest which the lessee is about to take, of which the

lessee is, and the lessor is not, aware, and which materially increases the value of such interest :

(l) the lessee is bound to pay or tender, at the proper time and place, the premium or rent to the lessor or his agent in this behalf :

(m) the lessee is bound to keep, and on the termination of the lease to restore, the property in as good condition as it was in at the time when he was put in possession, subject only to the changes caused by reasonable wear and tear or irresistible force, and to allow the lessor and his agents, at all reasonable times during the term, to enter upon the property and inspect the condition thereof and give or leave notice of any defect in such condition ; and, when such defect has been caused by any act or default on the part of the lessee, his servants or agents, he is bound to make it good within three months after such notice has been given or left :

(n) if the lessee becomes aware of any proceeding to recover the property or any part thereof, or of any encroachment made upon, or any interference with, the lessor's rights concerning such property, he is bound to give, with reasonable diligence, notice thereof to the lessor :

(o) the lessee may use the property and its products (if any) as a person of ordinary prudence would use them if they were his own ; but he must not use, or permit another to use, the property for a purpose other than that for which it was leased, or fell timber, pull down or damage buildings, work mines or quarries not open when the lease was granted, or commit any other act which is destructive or permanently injurious thereto :

(p) he must not, without the lessor's consent, erect on the property any permanent structure, except for agricultural purposes :

(q) on the determination of the lease, the lessee is bound to put the lessor into possession of the property.

109. If the lessor transfers the property leased, or any part thereof, or any Rights of lessor's part of his interest therein, the transferee, in the absence of a contract to the contrary, shall possess all the rights and, if the lessee so elects, be subject to all the liabilities of the lessor as to the property or part transferred so long as he is the owner of it ; but the lessor shall not, by reason only of such transfer, cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him :

Provided that the transferee is not entitled to arrears of rent due before the transfer, and that, if the lessee, not having reason to believe that such transfer has been made, pays rent to the lessor, the lessee shall not be liable to pay such rent over again to the transferee.

The lessor, the transferee and the lessee may determine what proportion of the premium or rent reserved by the lease is payable in respect of the part so transferred, and, in case they disagree, such determination may be made by any Court having jurisdiction to entertain a suit for the possession of the property leased.

110. Where the time limited by a lease of immovable property is expressed as commencing from a particular day, in computing that time such day shall be excluded. Where no

Exclusion of day on which term commences.

day of commencement is named, the time so limited begins from the making of the lease.

Where the time so limited is a year or a number of years, in the absence of an express agreement to the contrary, the lease shall last during the whole anniversary of the day from which such time commences.

Where the time so limited is expressed to be terminable before its expiration, and the lease omits to mention at whose option it is so terminable, the lessee, and not the lessor, shall have such option.

Determination of lease.

111. A lease of immovable property determines—

(a) by efflux of the time limited thereby;

(b) where such time is limited conditionally on the happening of some event—by the happening of such event;

(c) where the interest of the lessor in the property terminates on, or his power to dispose of the same extends only to, the happening of any event—by the happening of such event;

(d) in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right;

(e) by express surrender; that is to say, in case the lessee yields up his interest under the lease to the lessor, by mutual agreement between them;

(f) by implied surrender;

(g) by forfeiture; that is to say, (1) in case the lessee breaks an express condition which provides that, on breach thereof, the lessor may re-enter, or the lease shall become void; or (2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself; and in either case the lessor or his transferee does some act showing his intention to determine the lease;

(h) on the expiration of a notice to determine the lease, or to quit, or of intention to quit, the property leased, duly given by one party to the other.

Illustration to clause (f).

A lessee accepts from his lessor a new lease of the property leased, to take effect during the continuance of the existing lease. This is an implied surrender of the former lease, and such lease determines thereupon.

112. A forfeiture under section one hundred and

Waiver of forfeiture.

eleven, clause (g), is waived

by acceptance of rent which has become due since the forfeiture, or by distress for such rent, or by any other act on the part of the lessor showing an intention to treat the lease as subsisting;

Provided that the lessor is aware that the forfeiture has been incurred;

Provided also that, where rent is accepted after the institution of a suit to eject the lessee on the ground of forfeiture, such acceptance is not a waiver.

113. A notice given under section one hundred

and eleven, clause (h), is waived, with the express or

implied consent of the person to whom it is given, by any act on the part of the person giving it showing an intention to treat the lease as subsisting.

Illustrations.

(a). A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires. B tenders, and A

accepts, rent which has become due in respect of the property since the expiration of the notice. The notice is waived.

(b). A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires, and B remains in possession. A gives to B as lessee a second notice to quit. The first notice is waived.

114. Where a lease of immovable property has

Relief against forfeiture for non-payment of rent. determined by forfeiture for non-payment of rent, and the

lessor sues to eject the lessee, if, at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrear, together with interest thereon and his full costs of the suit, or gives such security as the Court thinks sufficient for making such payment within fifteen days, the Court may, in lieu of making a decree for ejectment, pass an order relieving the lessee against the forfeiture; and thereupon the lessee shall hold the property leased as if the forfeiture had not occurred.

115. The surrender, express or implied, of a lease

Effect of surrender of immovable property does not prejudice an under-lease.

of the property or any part thereof previously granted by the lessee, on terms and conditions substantially the same (except as regards the amount of rent) as those of the original lease; but, unless the surrender is made for the purpose of obtaining a new lease, the rent payable by, and the contracts binding on, the under-lessee shall be respectively payable to and enforceable by the lessor.

The forfeiture of such a lease annuls all such under-leases, except where such forfeiture has been procured by the lessor in fraud of the under-lessees or relief against the forfeiture is granted under section one hundred and fourteen.

116. If a lessee or under-lessee of property remains

in possession thereof after the determination of the lease granted to the lessee, and

the lessor or his legal representative accepts rent from the lessee or under-lessee, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year, or from month to month, according to the purpose for which the property is leased, as specified in section one hundred and six.

Illustrations.

(a). A lets a house to B for five years. B underlets the house to C at a monthly rent of Rs. 100. The five years expire, but C continues in possession of the house and pays the rent to A. C's lease is renewed from month to month.

(b). A lets a farm to B for the life of C. C dies, but B continues in possession with A's assent. B's lease is renewed from year to year.

117. None of the provisions of this chapter apply

to leases for agricultural purposes, except in so far as

the Local Government, with the previous sanction of the Governor General in Council, may by notification published in the local official Gazette declare all or any of such provisions to be so applicable, together with, or subject to, those of the local law, if any, for the time being in force.

Such notification shall not take effect until the expiry of six months from the date of its publication.

CHAPTER VI.

OF EXCHANGES.

118. When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing or both things being money only, the transaction is called an "exchange."

A transfer of property in completion of an exchange can be made only in manner provided for the transfer of such property by sale.

119. In the absence of a contract to the contrary, the party deprived of the thing or part thereof he has received in exchange, by reason of any defect in the title of the other party, is entitled at his option to compensation or to the return of the thing transferred by him.

120. Save as otherwise provided in this chapter, each party has the rights and is subject to the liabilities of a seller as to that which he gives, and has the rights and is subject to the liabilities of a buyer as to that which he takes.

121. On an exchange of money, each party there- by warrants the genuineness of the money given by him.

CHAPTER VII.

OF GIFTS.

122. "Gift" is the transfer of certain existing moveable or immovable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

Such acceptance must be made during the life- time of the donor and while he is still capable of giving.

If the donee dies before acceptance, the gift is void.

123. For the purpose of making a gift of immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.

124. A gift comprising both existing and future property is void as to the latter.

125. A gift of a thing to two or more donees, of whom one does not accept it, is void as to the interest which he would have taken had he accepted.

126. The donor and donee may agree that on the happening of any specified event which does not depend on the will of the donor

a gift shall be suspended or revoked; but a gift which the parties agree shall be revocable wholly or in part at the mere will of the donor is void wholly or in part, as the case may be.

A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded.

Save as aforesaid, a gift cannot be revoked.

Nothing contained in this section shall be deemed to affect the rights of transferees for consideration without notice.

Illustrations.

(a). A gives a field to B, reserving to himself, with B's assent, the right to take back the field in case B and his descendants die before A. B dies without descendants in A's lifetime. A may take back the field.

(b). A gives a lākh of rupees to B, reserving to himself, with B's assent, the right to take back at pleasure Rs. 10,000 out of the lākh. The gift holds good as to Rs. 90,000, but is void as to Rs. 10,000, which continue to belong to A.

127. Where a gift is in the form of a single transfer to the same person of several things of which one is, and the others are not, burdened by an obligation, the donee can take nothing by the gift unless he accepts it fully.

Where a gift is in the form of two or more separate and independent transfers to the same person of several things, the donee is at liberty to accept one of them and refuse the others, although the former may be beneficial and the latter onerous.

A donee not competent to contract and accept- ing property burdened by any obligation is not bound by his acceptance. But if, after becoming com- petent to contract and being aware of the obliga- tion, he retains the property given, he becomes so bound.

Illustrations.

(a). A has shares in X, a prosperous joint stock company, and also shares in Y, a joint stock company in difficulties. Heavy calls are expected in respect of the shares in Y. A gives B all his shares in joint stock companies. B refuses to accept the shares in Y. He cannot take the shares in X.

(b). A, having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is more than the house can be let for, gives to B the lease, and also, as a separate and independent transaction, a sum of money. B refuses to accept the lease. He does not by this refusal forfeit the money.

128. Subject to the provisions of section one hundred and twenty-seven, where a gift consists of the donor's whole property, the donee is personally liable for all the debts due by the donor at the time of the gift to the extent of the property com- prised therein.

129. Nothing in this chapter relates to gifts of moveable property made in contemplation of death, or shall be deemed to affect any rule of Muhammadan law, or, save as provided by section one hundred and twenty-three, any rule of Hindú or Buddhist law.

CHAPTER VIII.

OF TRANSFERS OF ACTIONABLE CLAIMS.

130. A claim which the civil Courts recognise as affording grounds for re- lief is actionable whether a suit for its enforcement is or is not actually pending or likely to become necessary.

131. No transfer of any debt or any beneficial interest in moveable property shall have any operation against the debtor or against the person in whom the property is vested, until express notice of the transfer is given to him, unless he is a party to or otherwise aware of such transfer; and every dealing by such debtor or person, not being a party to or otherwise aware of, and not having received express notice of, a transfer, with the debt or property shall be valid as against such transfer.

Illustration

A owes money to B, who transfers the debt to C. B then demands the debt from A, who having no notice of the transfer, pays B. The payment is valid, and C cannot sue A for the debt.

132. Every such notice must be in writing signed by the person making the transfer, or by his agent duly authorized in this behalf.

133. On receiving such notice, the debtor or person in whom the property is vested shall give effect to the transfer unless where the debtor resides, or the property is situate, in a foreign country and the title of the person in whose favour the transfer is made is not complete according to the law of such country.

134. Where the transferor of a debt warrants the solvency of the debtor the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

135. Where an actionable claim is sold, he against whom it is made is wholly discharged by paying to the buyer the price and incidental expenses of the sale, with interest on the price from the day that the buyer paid it.

Nothing in the former part of this section applies—

(a) where the sale is made to the co-heir to, or co-proprietor of, the claim sold;

(b) where it is made to a creditor in payment of what is due to him;

(c) where it is made to the possessor of a property subject to the actionable claim;

(d) where the judgment of a competent Court has been delivered affirming the claim, or where the claim has been made clear by evidence and is ready for judgment.

136. No judge, pleader, mukhtár, clerk, bailiff or other officer connected with Courts of justice can buy any actionable claim falling under the jurisdiction of the Court in which he exercises his functions.

137. The person to whom a debt or charge is transferred shall take it subject to all the liabilities to which the transferor was subject in respect thereof at the date of the transfer.

Illustration.

A debenture is issued in fraud of a public company to A. A sells and transfers the debenture to B, who has no notice of the fraud. The debenture is invalid in the hands of B.

138. When a debt is transferred for the purpose of securing an existing, or future debt, the debt so transferred, if recovered by either the transferor or transferee, is applicable, first, in payment of the costs of such recovery; secondly, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor.

139. Nothing in this chapter applies to negotiable instruments.

THE SCHEDULE.

(a) STATUTES.

Year and chapter.	Subject.	Extent of repeal.
27 Hen. VIII. c. 10.	Uses	The whole.
13 Eliz., c. 5 ..	Fraudulent conveyances	The whole.
27 Eliz., c. 4 ..	Fraudulent conveyances	The whole.
4 Wm. & Mary. c. 16	Clandestine mortgages	The whole.

(b). ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
IX of 1842 XXXI of 1851 XI of 1855	Lease and release .. Modes of conveying land Mesne profits and improvements.	The whole. Section 17. Section 1, in the title, the words "to mesne profits and" and in the preamble "to limit the liability for mesne profits and".
XXVII of 1868 IV of 1872	Indian Trustee Act .. Panjab Laws Act ..	Section 31. So far as it relates to Bengal Regulations I of 1798 and XVII of 1806.
XX of 1875	Central Provinces Laws Act.	So far as it relates to Bengal Regulations I of 1798 and XVII of 1806.
XVIII of 1876	Oudh Laws Act ..	So far as it relates to Bengal Regulation XVII of 1806.
I of 1877	Specific Relief ..	In sections 35 and 36, the words "in writing."

(c). REGULATIONS.

Number and year	Subject.	Extent of repeal.
Bengal Regulation I of 1798.	Conditional sales ..	The whole Regulation.
Bengal Regulation XVII of 1806.	Redemption ..	The whole Regulation.
Bombay Regulation V of 1827.	Acknowledgment of debts. Interest. Mortgages in possession.	Section 15.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th February, 1882, and is hereby promulgated for general information :—

ACT No. V of 1882.

THE INDIAN EASEMENTS ACT,
1882.

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An Act to define and amend the law relating to Easements and Licenses.

WHEREAS it is expedient to define and amend the law relating to Easements and Licenses; It is hereby enacted as follows:—

PRELIMINARY.

Short title. 1. This Act may be called "The Indian Easements Act, 1882":

Local extent. It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg:

Commencement. and it shall come into force on the first day of July, 1882.

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed; or to derogate from—

(a) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation;

(b) any customary or other right (not being a license) in or over immoveable property which the Government, the public or any person may possess irrespective of other immoveable property; or

(c) any right acquired, or arising out of a relation created, before this Act comes into force.

3. Sections 26 and 27 of the Indian Limitation Act, 1877, and the repeal of Act XV of 1877, sections 26 and 27. definition of "easement" contained in that Act, are repealed in the territories to which this Act extends. All references in any Act or Regulation to the said sections, or to sections 27 and 28 of Act No. IX of 1871, shall, in such territories, be read as made to sections fifteen and sixteen of this Act.

CHAPTER I.—OF EASEMENTS GENERALLY.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner.

Explanation.—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth: the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity, and the expression "to do something" includes removal and appropriation by the dominant owner, for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

Illustrations.

(a) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(b) A, as the owner of a certain house, has the right to go on his neighbour B's land, and to take water for the purposes of his household out of a spring therein. This is an easement.

(c) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(d) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(e) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(f) A is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

5. Easements are either continuous or discontinuous, apparent or non-apparent.

Continuous and discontinuous, apparent and non-apparent, easements.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which, upon careful inspection by a competent person would be visible to him.

non-apparent easement is one that has no such sign.

Illustrations.

(a) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(b) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(c) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(d) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exerciseable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easement for limited time or on condition.

7. Easements are restrictions of one or other Easements restrictive of the following rights of certain rights. (namely):—

(a) The exclusive right of every owner of Exclusive right to immovable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto.

(b) The right of every owner of immovable Rights to advantages property (subject to any law arising from situation, for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

Illustrations of the rights above referred to.

(a) The exclusive right of every owner of land in a town to build on such land, subject to any municipal law for the time being in force.

(b) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(c) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(d) The right of every owner of land to so much light and air as pass vertically thereto.

(e) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure; and the "subjacent and adjacent soil" mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(f) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(g) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(h) The right of every owner of land that the water of every natural stream, which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(i) The right of every owner of upper land that water naturally rising in, or falling on, such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

CHAPTER II.—THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. An easement may be imposed by any one in Who may impose the circumstances, and to easements the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed.

Illustrations.

(a) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(b) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(c) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(d) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

9. Subject to the provisions of section eight, a Servient owners. servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

Illustrations.

(a) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: provided that A's supply is not thereby diminished.

(b) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: provided that A's right of way is not thereby obstructed.

10. Subject to the provisions of section eight, a Lessor and mortgagor. lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or if consisting of buildings, exceeds by one-half,

the amount for the time being due on the mortgage.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own interest or in derogation of the right of the lessor or the superior proprietor.

12. An easement may be acquired by the owner of the immovable property for the beneficial enjoyment of which the right is created, or on his behalf, by any person in possession of the same.

One of two or more co-owners of immovable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immovable property can acquire, for the beneficial enjoyment of other immovable property of his own, an easement in or over the property comprised in his lease.

13. Where one person transfers or bequeaths immovable property to another,—

(a) if an easement in other immovable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement; or

(b) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;

(c) if an easement in the subject of the transfer or bequest is necessary for enjoying other immovable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or

(d) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

(e) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or

(f) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (a), (c) and (e), are called easements of necessity.

Where immovable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

Illustrations.

(a) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(b) A, the owner of two fields, sells one to B, and retains the other. The field retained was at the date of the sale used for agricultural purposes only and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(c) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the grant took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(d) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the grant took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(e) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale was made. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(f) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(g) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(h) A, the owner of two adjoining houses, Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale was made, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale was made.

(i) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(j) A, the owner of two adjoining buildings, sells one to B, and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(k) A grants land to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

(l) Under the Land Acquisition Act, 1870, a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding.

(m) Owing to the partition of joint property, A becomes the owner of an upper room in a building and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

(n) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

14. When right to a way of necessity is created under section thirteen, the transferor, the legal representative of the testator, or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

15. Where the access and use of light or air to and for any building have been peaceably enjoyed there-with, as an easement, without interruption, and for twenty years,

Acquisition by prescription
and where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation I.—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

Explanation II.—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government this section shall be read as if, for the words "twenty years", the words "sixty years" were substituted.

Illustrations.

(a) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January, 1882. The plaintiff is entitled to judgment.

(b) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(c) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.

16. Provided that, when any land upon, Exclusion in favour of over or from which any reversioner of servient easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life-interest in the land; that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

17. Easements acquired under section fifteen

Rights which cannot be acquired by prescription, and are called prescriptive rights.

None of the following rights can be so acquired:—

(a) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed;

(b) a right to the free passage of light or air to an open space of ground;

(c) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise;

(d) a right to underground water not passing in a defined channel.

18. An easement may be acquired in virtue of

Customary easements. a local custom. Such easements are called customary easements.

Illustrations.

(a) By the custom of a certain village every cultivator of village land is entitled, as such, to graze his cattle on the common pasture. A having become the tenant of a plot of uncultivated land in the village breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(b) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

19. Where the dominant heritage is transferred

Transfer of dominant or devolves, by act of par- heritage passes eas- ties or by operation of law, ment. the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

Illustration.

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

CHAPTER III.—THE INCIDENTS OF EASEMENTS.

20. The rules contained in this chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed.

And when any incident of any customary easement is inconsistent with such rules, nothing in this chapter shall affect such incident.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

Illustrations.

(a) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y, A has another farm Z, the beneficial enjoyment of which is not necessary for the purpose of passing to and from Z.

(b) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and when the exercise of an easement can be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

Illustrations.

(a) A has a right of way over B's field. A must enter the way at either end and not at any intermediate point.

(b) A has a right annexed to his house to cut thatching-grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

23. Subject to the provisions of section twenty-two, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

Illustrations.

(a) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(b) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(c) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from banyans, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(d) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Illustrations.

(a) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(b) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(c) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(d) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(e) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(f) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(g) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

25. The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.

27. The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement: but he must not do any act tending to restrict the easement or to render its exercise less convenient.

Illustrations.

(a) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound as servient owner to clear the watercourse or scour the sewer.

(b) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(c) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(d) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(e) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect:—

Extent of easements. An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed.

Other easements. The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired.

In the absence of evidence as to such intention and purpose—

Right of way. (a) a right of way of any one kind does not include a right of way of any other kind:

(b) the extent of a right to the passage of light Right to light or air or air to a certain window, acquired by grant. door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made:

(c) the extent of a prescriptive right to the Prescriptive right to passage of light or air to a light or air. certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used:

(d) the extent of a prescriptive right to pollute Prescriptive right to air or water is the extent of pollute air and water. the pollution at the commencement of the period of user on completion of which the right arose: and

(e) the extent of every other prescriptive right Other prescriptive and the mode of its enjoyment. rights. ment must be determined by the accustomed user of the right.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

Illustrations.

(a) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(b) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(c) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

30. Where a dominant heritage is divided between two or more persons, the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage: provided that such annexation is consistent with the terms of the instrument, decree or revenue proceeding (if any) under which the division was made, and in the case of prescriptive rights, with the user during the prescriptive period.

Illustrations.

(a) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(b) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage, to draw from the well fifty buckets a day; but the amount drawn by both must not exceed fifty buckets a day.

(c) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

31. In the case of excessive user of an easement Obstruction in case of the servient owner may, excessive user without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage: provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

Illustration.

A, having a right to the free passage over B's land of light to four windows six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

CHAPTER IV.—THE DISTURBANCE OF EASEMENTS.

32. The owner or occupier of the dominant Right to enjoyment heritage is entitled to enjoy without disturbance. the easement without disturbance by any other person.

Illustration.

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

33. The owner of any interest in the dominant Suit for disturbance heritage, or the occupier of of easement. such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto; provided that the disturbance has actually caused substantial damage to the plaintiff.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the

value of the dominant heritage, is substantial damage within the meaning of this section and section thirty-four.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section unless it falls within the first Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(a) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(b) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot passengers using the way. This is not substantial damage to A.

34. The removal of the means of support to

When cause of action arises for removal of support which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage is actually sustained.

35. Subject to the provisions of the Specific

Injunction to restrain Relief Act, 1877, sections 52 disturbance. to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

(a) if the easement is actually disturbed,—when compensation for such disturbance might be recovered under this chapter :

(b) if the disturbance is only threatened or intended,—when the act threatened or intended must necessarily, if performed, disturb the easement.

36. Notwithstanding the provisions of section

Abatement of obstruction of easement. twenty-four, the dominant owner cannot himself abate a wrongful obstruction of an easement.

CHAPTER V.—THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

37. When, from a cause which preceded the

Extinction by dissolution of right of servient owner. imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Exception.—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section ten.

Illustrations.

(a) A transfers Sultānpur to B on condition that he does not marry C. B imposes an easement on Sultānpur. Then B marries C. B's interest in Sultānpur ends, and with it the easement is extinguished.

(b) A, in 1860, let Sultānpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement

peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultānpur then ends, and with it C's easement.

(c) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(d) A mortgages Sultānpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section ten. The land is sold to D in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

38. An easement is extinguished when the

Extinction by release. dominant owner releases it, expressly or impliedly, to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

(a) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority ;

(b) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(a) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(b) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is ineffectual.

(c) A, having the right to discharge his eavesdroppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(d) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(e) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land permanently alters the roof, so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

39. An easement is extinguished when the

Extinction by revocation. servient owner, in exercise of a power reserved in this behalf, revokes the easement.

40. An easement is extinguished where it has

Extinction on expiration of limited period or happening of dissolving condition. been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

41. An easement of necessity is extinguished

Extinction on termination of necessity. when the necessity comes to an end.

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

43. Where by any permanent change in the dominant heritage the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(a) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used; or

(b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or

(c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement:

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage; and the provisions of section fourteen apply to such way.

Illustrations.

(a) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(b) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Illustration.

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Illustrations.

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustrated in section forty-one.

(c) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(e) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(f) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner.

Provided that if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877, a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

(a) where the cessation is in pursuance of a contract between the dominant and servient owners;

(b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period, or

(c) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Illustration.

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section forty-seven. The right of way is also extinguished.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Suspension of easement.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section twenty-six, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Servient owner not entitled to require continuance.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Compensation for damage caused by extinguishment.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

51. An easement extinguished under section forty-five revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (b) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (c) when the destroyed heritage is a dominant building and before twenty years have expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

Revival of easements.

An easement extinguished under section forty-six revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section forty-seven.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

CHAPTER VI.—LICENSES.

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property

"License" defined.

of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

Illustration.

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

Illustrations.

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immoveable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary gran-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same deposit grain therein and remove grain therefrom.

57. The grantor of a license is bound to disclose to the licensee any defects in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

License when revocable.

60. A license may be revoked by the grantor, unless—

(a) it is coupled with a transfer of property and such transfer is in force;

(b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

Revocation express or implied.

61. The revocation of a license may be express or implied.

Illustrations.

(a) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

62. A license is deemed to be revoked—

(a) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license

(b) when the licensee releases it, expressly or impliedly, to the grantor or his representative

(c) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires, or the condition is fulfilled

(d) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right

(e) where the licensee becomes entitled to the absolute ownership of the property affected by the license

(f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable

(g) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist

(h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee

(i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

63. Where a license is revoked, the licensee is
In such rights as entitled to a reasonable time
reversion to leave the property affected
thereby and to remove any goods which he has
been allowed to place on such property.

64. Where a license has been granted for a con-
siderable rights on consideration, and the licensee,
even without any fault of his own,
is evicted by the grantor before he has fully en-
joyed, under the license, the right for which he
contracted, he is entitled to recover compensation
from the grantor

R. J. CROSTHWAITE,

Offg. Secy to the Govt of India

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1882, and is hereby promulgated for General information:—

ACT No. VI OF 1882.

THE INDIAN COMPANIES ACT,
1882.

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FIRST SCHEDULE.

SECOND SCHEDULE.

An Act for the incorporation, regulation and winding-up of Trading Companies and other Associations.

WHEREAS it is expedient to amend the law relating to the incorporation, regulation and winding-up of Trading Companies and other Associations; It is hereby enacted as follows:

PRELIMINARY.

1. This Act may be cited as "The Indian Companies Act, 1882":
 Short title. it extends to the whole of
 Local extent. British India:
 it shall come into force on the first day of May,
 Commencement. 1882; and the time at which
 it comes into force is herein-
 after referred to as the commencement of this Act.

2. On and from the commencement of this Act, the Indian Companies Act, 1866, shall be repealed. But such repeal shall not affect—

(a) the incorporation of any Company registered under the said Act or any Act thereby repealed;

(b) any right or privilege acquired or liability incurred under the said Act or any Act thereby repealed;

(c) table B in the schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.

And all references to the said Indian Companies Act, 1866, in Acts or Regulations passed before the commencement of this Act shall be read as if made to this Act, and all rules made, fees directed, resolutions passed and other things duly done under the same Act shall be deemed to be respectively made, directed, passed and done under this Act; and all Companies under the same Act shall be deemed to be Companies under this Act.

3. In this Act, unless there be something repugnant in the subject or context,—
 Interpretation-clause.

"Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses;

"Court" means the principal civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction;

"District Court" means the principal civil Court of original jurisdiction in a district, but does not include the High Court in the exercise of its ordinary original civil jurisdiction.

4. No Company, Association or Partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor General in Council, or by royal charter or Letters Patent; and no Company, Association or Partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

5. This Act is divided into nine Parts, relating to the following subject-matters:—

The first Part—to the constitution and incorporation of Companies and Associations under this Act;

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act;

The third Part—to the management and administration of Companies and Associations under this Act;

The fourth Part—to the winding-up of Companies and Associations under this Act;

The fifth Part—to the registration-office;

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations either with or without limited liability of the members thereof*), and Act No. VII of 1860 (*to enable Joint Stock Banking Companies to be formed on the principle of limited liability*), or either of them;

The seventh Part—to Companies authorized to register under this Act;

The eighth Part—to the application of this Act to unregistered Companies;

The ninth Part—to miscellaneous provisions.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

6. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Explanation.—Foreigners are persons within the meaning of this section, although the whole or any part of the business of the proposed Company is intended to be transacted out of British India.

7. The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Where a Company is formed as a Limited Company, the liability of the directors or managers of such Company, or of the managing director, may, if so provided by the memorandum of association, be unlimited.

8. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company with the addition of the word "limited" as the last word in such name;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established;

(d) a declaration that the liability of the members is limited;

(e) the amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount:

Subject to the following regulations:—

(f) that no subscriber shall take less than one share;

(g) that each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

9. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up (hereinafter referred to as a Company limited by guarantee), the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company, with the addition of the word "limited" as the last word in such name;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established

(d) a declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

10. Where a Company is formed on the principle of having no limit placed on the liability of its members (hereinafter referred to as an unlimited Company), the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established.

11. The memorandum of association shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained, on the part of himself, his heirs, executors and administrators, a contract to observe all the conditions of such memorandum subject to the provisions of this Act.

12. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by special resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid up shares into stock; but, save as aforesaid, and save as hereinafter provided, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Reduction of Capital and Shares.

13. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital; but no such resolution for reducing the capital of any Company shall come into operation until an order of the Court is registered by the Registrar of joint stock Companies, as is hereinafter mentioned.

Explanation I.—The word “capital” includes paid up capital.

Explanation II.—The power to reduce capital conferred by this section includes a power to cancel any lost capital, or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the Company; and paid up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the Company; and, to the extent to which such liability is not extinguished or reduced, it shall be deemed to be preserved, notwithstanding anything hereinafter contained.

14. The Company shall, after the date of the passing of any special resolution for reducing its capital, add to its name, until such date as the Court may fix, the words “and reduced,” as the last words in its name, and those words shall, until such date, be deemed to be part of the name of the Company.

Company to add “and reduced” to its name for a limited period.

15. A Company which has passed a special resolution for reducing its capital may apply to the Court by petition for an order confirming the reduction, and, on the hearing of the petition, the Court, if satisfied that, with respect to every creditor of the Company who, under the provisions of this Act, is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged or has determined, or has been secured as hereinafter provided, may make an order confirming the reduction on such terms and subject to such conditions as it deems fit.

When the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction; and it shall not be necessary, before the presentation of any petition under this section, to add, and the Court may, if it thinks fit so to do, dispense with the addition of, the words “and reduced,” as mentioned in section fourteen.

In any case that the Court thinks fit so to do, it may require the Company to publish, in such manner as the Court thinks fit, the reasons for the reduction or such other information regarding the same as the Court may think expedient with a view to give proper information to the public in relation to such reduction, and if the Court thinks fit, the cause which led thereto.

16. Where a Company proposes to reduce its capital, every creditor of the Company who, at the date fixed by the Court, is entitled to any debt or claim which, if that date were the commencement of the winding-up of the Company, would be admissible in proof against the Company, shall be entitled to object to the proposed reduction, and to be entered

Creditors may object to reduction, and list of objecting creditors to be settled by Court.

in the list of creditors who are so entitled to object.

The Court shall settle a list of such creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any creditor, the names of such creditors and the nature and amount of their debts or claims, and may publish notices fixing a certain day or days within which creditors of the Company who are not entered on the list are to claim to be so entered, or to be excluded from the right of objecting to the proposed reduction:

Provided that, when the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction.

17. Where a creditor whose name is entered on the list of creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the Court may (if it thinks fit) dispense with such consent on the Company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the Court may direct a sum of such amount as is hereinafter mentioned (that is to say):—

(a) If the full amount of the debt or claim of the creditor is admitted by the Company, or, though not admitted, is such as the Company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

(b) If the full amount of the debt or claim of the creditor is not admitted by the Company, and is not such as the Company are willing to set apart and appropriate, or if the amount is contingent or not ascertained, then the Court may, if it thinks fit, inquire into and adjudicate upon the validity of such debt or claim, and the amount for which the Company may be liable in respect thereof, in the same manner as if the Company were being wound up by the Court; and the amount fixed by the Court on such inquiry and adjudication shall be set apart and appropriated.

18. The Registrar of joint stock Companies, upon the production to him of an order of the Court confirming the reduction of the capital of a Company, and the delivery to him of a copy of the order and of a minute (approved by the Court), showing, with respect to the capital of the Company as altered by the order, the amount of such capital, the number of shares in which it is to be divided, and the amount of each share, and the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share, shall register the order and minute; and, on the registration, the special resolution confirmed by the order so registered shall take effect.

Order and minute to be registered.

Notice of such registration shall be published in such manner as the Court may direct.

The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to the reduction of capital have been complied with, and that the capital of the Company is such as is stated in the minute.

19. The minute, when registered, shall be deemed to be substituted for the corresponding part of the memorandum of association of the Company, and shall be of the same validity, and subject to the same alterations, as if it had been originally contained in the memorandum of association; and, subject as in this Act mentioned, no member of the Company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute.

20. If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a Company under this Act is, in consequence of his ignorance of the proceedings taken with a view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and after such reduction the Company is unable, within the meaning of this Act, to pay to the creditor the amount of such debt or claim, every person who was a member of the Company at the date of the registration of the order and minute relating to the reduction of its capital shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the Company had commenced to be wound up on the day prior to such registration;

and, on the Company being wound up, the Court, on the application of such creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it thinks fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories of the Company among themselves.

21. A minute, when registered, shall be embodied in every copy of the memorandum of association issued after its registration; and, if any Company makes default in complying with the provisions of this section, it shall incur a penalty not exceeding ten rupees for each copy in respect of which such default is made; and every director and manager of the Company who know-

ingly and wilfully authorizes or permits such default shall incur the like penalty.

22. If any director, manager or officer of the Company wilfully conceals the name of any creditor of the Company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the Company, or if any director or manager of the Company abets, within the meaning of the Indian Penal Code, any such concealment or misrepresentation as aforesaid, every such director, manager or officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

23. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as to reduce its capital by cancelling any shares which, at the date of passing such resolution, have not been taken or agreed to be taken by any persons; and the provisions as to reduction of capital contained in the other sections of this Act shall not apply to any reduction made in pursuance of this section.

Sub-division of Shares.

24. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as, by sub-division of its existing shares or any of them, to divide its capital, or any part thereof, into shares of smaller amount than is fixed by its memorandum of association:

Provided that, in the sub-division of the existing shares, the proportion between the amount which is paid and the amount (if any) which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived.

25. The statement of the number and amount of the shares into which the capital of the Company is divided, contained in every copy of the memorandum of association issued after the passing of any such special resolution, shall be in accordance with such resolution; and any Company which makes default in complying with the provisions of this section shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly or wilfully authorizes or permits such default shall incur the like penalty.

Associations not for Profit.

26. Where any association which might be formed under this Act as a limited Company proves to the Local Government that

it is formed for the purpose of promoting commerce, art, science, charity, or any other useful object, and that it is the intention of such association to apply the profits, if any, or other income of the association, in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may, by license under the hand of one of its Secretaries, direct such association to be registered with limited liability, without the addition of the word "limited" to its name; and such association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to the obligations by this Act imposed on limited Companies; with the exceptions that none of the provisions of this Act that require a limited Company to use the word "limited" as any part of its name, or to publish its name, or to send a list of its members, directors, or managers to the Registrar, shall apply to an association so registered.

The license by the Local Government may be granted upon such conditions and subject to such regulations as the Local Government thinks fit to impose; and such conditions and regulations shall be binding on the association, and may at the option of the Local Government be inserted in the memorandum and articles of association, or in both or one of such documents.

Calls upon Shares.

27. Nothing herein contained shall be deemed to prevent any Company under this Act, if authorized by its regulations as originally framed or as altered by special resolution, from doing any one or more of the following things, namely:—

(a) making arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid, and in the time of payment of such calls;

(b) accepting from any member of the Company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him, either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made;

(c) paying dividend in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others.

28. Every share in any Company shall be deemed

Manner in which shares are to be issued and held. issued and taken to have been issued and to be held subject to the payment of the whole amount thereof in cash, unless the same has been otherwise determined by a contract duly made in writing and filed with the Registrar of joint stock Companies at or before the issue of such shares.

Transfer of Shares.

29. A Company shall, on the application of the transferor of any share or interest in the Company, transfer the same to the transferee, if the application is made in writing and filed with the Registrar, and the transferor is registered as request of transferor.

bers the name of the transferee of such share or interest in the same manner and subject to the same conditions as if the application for such entry were made by the transferee.

Share-warrants to Bearer.

30. In the case of a Company limited by shares, the Company, if authorized, may, with respect to any share which is fully paid up, or with respect to stock, issue under their common seal a warrant (hereinafter referred to as a share-warrant) stating that the bearer thereof is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on such shares or stock.

Warrant of limited shares fully paid up may be issued in name of bearer. so to do by its regulations as originally framed or as altered by special resolution, and subject to the provisions of such regulations, may, with respect to any share which is fully paid up, or with respect to stock, issue under their common seal a warrant (hereinafter referred to as a share-warrant) stating that the bearer thereof is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on such shares or stock.

31. A share-warrant shall entitle the bearer thereof to the shares or stock specified therein; and such shares or stock may be transferred by the delivery of the share-warrant.

32. The bearer of a share-warrant shall, subject to the regulations of the Company, be entitled, on surrendering such warrant for cancellation, to have his name entered as a member in the register of members; and the Company shall be responsible for any loss incurred by any person by reason of the Company entering in its register of members the name of any bearer of a share-warrant in respect of the shares or stock specified therein without the share-warrant being surrendered and cancelled.

33. The bearer of a share-warrant may, if the regulations of the Company so provide, be deemed to be a member of the Company within the meaning of this Act, either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share-warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or manager of the Company in cases where such a qualification is prescribed by the regulations of the Company.

34. On the issue of a share-warrant in respect of any share or stock, the Company shall strike out of its register of members the name of the member then entered therein as holding such share or stock, as if he had ceased to be a member, and shall enter in the register the following particulars:—

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares or stock included in the warrant, distinguishing each share by its number;
- (c) the date of the issue of the warrant.

35. There shall be charged on every share-warrant a stamp-duty of an amount equal to three times the amount of the *ad valorem* stamp-duty which would be chargeable on an instrument transferring the shares or stock specified in the warrant if the consideration for the transfer were the nominal value of such shares or stock.

If a share-warrant is issued without being duly stamped, the Company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the Company, shall forfeit the sum of five hundred rupees.

Change of Name.

36. Any Company under this Act, with the sanction of a special resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Explanation.—The issue of the certificate of incorporation is necessary to complete the change of name.

Articles of Association.

37. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by articles of association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient.

The articles shall be expressed in separate paragraphs, numbered consecutively. They may adopt all or any of the provisions contained in the table marked A in the first schedule hereto. They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered, and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the

purpose of enabling the Registrar to determine the fees payable on registration.

In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

38. In the case of a Company limited by shares, if the memorandum of association is not accompanied by articles of association, or, in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto, the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company, in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered.

39. The articles of association shall be printed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least.

When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto and as if such articles contained a contract on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to the provisions of this Act.

All monies payable by any member to the Company in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provisions.

40. The memorandum of association, and the articles of association, if any, shall be delivered to the Registrar of joint stock Companies hereinafter mentioned, who shall retain and register the same. It is not his duty to require evidence as to whether the several subscribers to a memorandum of association so delivered are competent to contract.

There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the table marked B in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the table marked C in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct.

All fees paid to the said Registrar in pur-

suance of this Act shall be accounted for to Government.

41. Upon the registration of the memorandum of association, and of the articles of association in cases where articles of association are required by this Act or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a limited Company that the Company is limited: the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned.

A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

42. A copy of the memorandum of association, having annexed thereto the articles of association, if any, shall be forwarded to every member, at his request, on payment of such sum, not exceeding one rupee, as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and articles of association, if any, to a member in pursuance of this section, the Company so making default shall for each such offence incur a penalty not exceeding twenty rupees.

43. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires.

If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the sanction of the Registrar, change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or

commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

44. The shares or other interest of any member in a Company under this Act shall be moveable property, capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

45. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the register of members hereinafter mentioned; and every other person who has agreed with a Company under this Act to become a member of such Company, and whose name is entered on the register of members, shall be deemed to be a member of the Company.

46. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

47. Every Company under this Act shall cause to be kept in one or more books a register of its members, and there shall be entered therein the following particulars:—

(a) the names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(b) the date at which the name of any person was entered in the register as a member;

(c) the date at which any person ceased to be a member.

Where a share-warrant has been issued under section thirty, until the warrant is surrendered, the particulars mentioned in section thirty-four

shall be deemed to be the particulars which are required by this section to be entered in the register of members of a Company; and, on the surrender of a warrant, the date of such surrender shall be entered as if it were the date at which a person ceased to be a member.

Any Company acting in contravention of this section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this section continues, and every director or manager of the Company who knowingly and wilfully authorizes or permits such contravention shall incur the like penalty.

48. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting, or, if there is more than one ordinary general meeting in each year, the first of such ordinary general meetings, is held, are members of the Company. Such list shall state the names, addresses and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:—

- (a) the amount of the capital of the Company and the number of shares into which it is divided;
- (b) the number of shares taken from the commencement of the Company up to the date of the summary;
- (c) the amount of calls made on each share;
- (d) the total amount of calls received;
- (e) the total amount of calls unpaid;
- (f) the total amount of shares forfeited;
- (g) the names, addresses and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the register, and shall be completed within seven days after such fourteenth day as is mentioned in this section; and a copy shall forthwith be forwarded to the Registrar of joint stock Companies.

49. After the issue by the Company of a share-warrant, the annual summary required by section forty-eight shall contain the following particulars (namely):—the total amount of shares or stock for which share-warrants are outstanding at the date of the summary, and the total amount of share-warrants which have been issued and surrendered respectively since the last summary was made, and the number of shares or amount of stock comprised in each warrant.

50. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of mem-

bers or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

51. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall, within fifteen days of such consolidation, division or conversion, give notice to the Registrar of joint stock Companies of the same, specifying the shares so consolidated, divided or converted.

52. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock and given notice of such conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the register of members hereby required to be kept by the Company and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list, instead of the amount of shares and the particulars relating to shares hereinbefore required.

53. No notice of any trust, express, implied or constructive, shall be entered on the register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

54. A certificate under the common seal of the Company, specifying any shares or stock held by any member of a Company, shall be *prima facie* evidence of the title of the member to the share or shares or stock therein specified.

55. The register of members, commencing from the date of the registration of the Company, shall be kept at the registered office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in general meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee, or such less sum as the Company may prescribe, for each inspection.

Every such member or other person may require a copy of such register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied.

If such inspection or copy is refused, the Com-

pany shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

Every director and manager of the Company who knowingly authorizes or permits such refusal shall incur the like penalty.

In addition to the above penalty any Judge of a High Court may by order compel an immediate inspection of the register.

56. Any Company under this Act may, upon giving notice by advertisement in some newspaper

Power to close register. circulating in the district in which the registered office of the Company is situate and in the local official Gazette, close the register of members for any time or times not exceeding in the whole thirty days in each year.

57. Where a Company has a capital divided

Notice of increase of capital and of members to be given to Registrar. into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital, within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and in the case of an increase of members, within fifteen days from the time at which such increase of members has been resolved on or has taken place; and the Registrar shall forthwith record the amount of such increase of capital or members.

If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

58. If the name of any person is fraudulently or

Remedy for improper entry or omission of entry in register. without sufficient cause entered in, or omitted from, the register of members kept by any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original civil jurisdiction in the district or place in which the registered office of the Company is situate, apply for an order of the Court that the register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained.

The Court may in any proceeding under this section decide any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and whether there has or has not been default on the part of the Company; and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the register: Provided that the Court may direct an issue to be tried in which any question of law may be raised; and an appeal in the manner directed by the Code of Civil Procedure shall lie.

59. Whenever any order has been made for rectifying the register in the case of a Company hereby

Notice to Registrar of rectification of register. required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

60. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Register to be evidence.

Liability of Members.

61. In the event of a Company formed under

Liability of present and past members of Company. this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company and the costs, charges and expenses of the winding-up, and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following, (that is say):—

(a) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(b) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(c) No past member shall be liable to contribute to the assets of the Company unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(d) In the case of a Company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(e) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking

entered into on his behalf by the memorandum of association :

(f) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract :

(g) No sum due to any member of a Company in his character of a member, by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

Explanation I.—The liability of past members is a liability to contribute to the general assets of the Company, against which assets creditors (at whatever time their debts may have been contracted) have equal rights.

Explanation II.—In estimating the debts to which a past member is liable, all dividends paid on these debts under the winding-up must be deducted.

62. With respect to the contributions to be required in the event of the winding-up of a limited Company from any director or manager whose liability is unlimited, the following modifications shall be made in the last preceding section :—

(a) Subject to the provisions hereinafter contained, any such director or manager, whether past or present, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to contribute as if he were at the date of the commencement of such winding-up a member of an unlimited Company :

(b) No contribution required from any past director or manager who has ceased to hold such office for a period of one year or upwards prior to the commencement of the winding-up shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company :

(c) No contribution required from any past director or manager in respect of any debt or liability of the Company contracted after the time at which he ceased to hold such office shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company :

(d) Subject to the provisions contained in the regulations of the Company, no contribution required from any director or manager shall exceed the amount (if any) which he is liable to contribute as an ordinary member, unless the Court thinks it necessary to require such contribution in order to satisfy the debts and liabilities of the Company, or the costs, charges and expenses of the winding-up.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

63. Every Company under this Act shall have a registered office to which all communications and notices may be addressed. If any Company under this Act carries on business without having such an office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

64. Notice of the situation of such registered office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered office.

65. Every limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible, in the English language, and also, if the registered office be situate in a district beyond the local limits of the ordinary original jurisdiction of a High Court, in one of the vernacular languages used in such district, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements and other official publications of such Company, and in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

66. If any limited Company under this Act does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed.

Every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty.

If any director, manager or officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company any bill

of exchange, hundi, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the Company.

Contracts.

67. Contracts on behalf of any Company under this Act may be made as follows (that is to say):—

(a) Any contract, which if made between private persons would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf of the Company in writing under the common seal of the Company; and such contract may be in the same manner varied or discharged:

(b) Any contract, which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company; and such contract may in the same manner be varied or discharged:

(c) Any contract, which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company; and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

68. Every limited Company under this Act shall keep a register of all mortgages and charges specifically affecting property of the Company, and shall enter in such register, in respect of each mortgage or charge, a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge.

If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every director, manager or other officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees.

The register of mortgages required by this section shall be open to inspection by any creditor or member of the Company at all reasonable times

If such inspection is refused, any officer of the Company refusing the same, and every director and manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

The High Court or any Judge thereof may by order compel the performance of the duty imposed by this section on a limited Company, and in addition to the above penalty may by order compel an immediate inspection of the register.

Explanation.—Omission to register under this section a mortgage or charge does not render the same invalid. But the officers of the Company cannot avail themselves as such of a mortgage or charge specifically affecting property of the Company and not so registered.

69. Every limited banking Company, and every insurance Company, and every provident or benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first schedule hereto, or as near thereto as circumstances will admit; and a copy of such statement shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on.

If default is made in compliance with the provisions of this section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding eight annas.

70. Every Company under this Act and not having a capital divided into shares shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and shall send to the Registrar of joint stock Companies a copy of such register, and shall from time to time notify to the Registrar any change that takes place in such directors or managers.

71. If any Company under this Act and not having a capital divided into shares makes default in keeping a register of its directors or managers, or in sending a copy of such register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such directors or managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues; and every

director or manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

72. A promissory note, bill of exchange or hundis shall be deemed to have been made, drawn, accepted or endorsed on behalf of any Company under this Act, if made, drawn, accepted or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, drawn, accepted or endorsed by or on behalf or on account of the Company by any person acting under the authority of the Company.

73. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

Provisions for Protection of Members.

74. A general meeting of every Company under this Act shall be held once at the least in every year.

A balance-sheet shall be made out and filed with the Registrar of joint stock Companies within twelve

months after the Company has been registered, and once at least in every year afterwards within twelve months from the filing of the balance-sheet immediately preceding; and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first schedule hereto, or as near thereto as circumstances admit.

And once at the least in every year the accounts of the Company shall be

examined and the correctness of the last balance-sheet and its conformity with the law ascertained and certified by one or more auditor or auditors.

No balance sheet shall be filed with the Registrar unless and until its correctness and conformity with the law have been so ascertained and certified, and it has been laid before and adopted by the Company in general meeting.

If default is made in compliance with any of the provisions of this section, every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to a penalty of one thousand rupees.

Meetings.

75. Every Company formed under this Act after the commencement of this Act shall hold a general meeting within six months after its memorandum of association is registered;

and, if such meeting is not held, the Company shall be liable to a penalty not exceeding fifty rupees a day for every day after the expiration of such four months, until the meeting is held; and every director or manager of the Company and every subscriber of the memorandum of Association who knowingly authorizes or permits such default shall be liable to the same penalty.

76. Subject to the provisions of this Act and to the conditions contained in the memorandum of association, any Company formed under this Act or the Indian Companies Act, 1866, may, in general meeting, from time to time, by passing a special resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the articles of association, or in the table marked A in the first schedule, where such table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company.

Any regulations so made by special resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the articles of association, and shall be subject in like manner to be altered or modified by any subsequent special resolution.

Any limited Company formed under this Act or the Indian Companies Act, 1866, may by a special resolution, if authorized to do so by its regulations as originally framed or as altered by special resolution, from time to time modify the conditions contained in its memorandum of association so far as to render unlimited, from and after the date of such resolution, the liability of its directors or managers, or of the managing director. Such special resolution shall be of the same validity as if it had been originally contained in the memorandum of association, and a copy thereof shall be embodied in or annexed to every copy of the memorandum of association which is issued after the passing of the resolution.

77. A resolution passed by a Company under this Act shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed) at any general meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent general meeting, of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such resolution was first passed.

At any meeting mentioned in this section, unless a poll is demanded by at least five members, a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same.

Notice of any meeting shall, for the purposes of this section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

In computing the majority under this section when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

78. In default of any regulations as to voting, every member shall have one vote, and, in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto.

In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and, in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

79. A copy of every special resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of joint stock Companies and be recorded by him.

If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

80. Where articles of association have been registered, a copy of every special resolution for the time being in force shall be annexed to or embodied in every copy of the articles of association that may be issued after the passing of such resolution. Where no articles of association have been registered, a copy of every special resolution shall be forwarded in print to any member requesting the same on payment of one rupee or such less sum as the Company may direct.

If any Company makes default in complying with the provisions of this section or section seventy-six, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

81. Any Company under this Act may, by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such attorney on behalf of the Company and under his seal shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

82. The Local Government may appoint one or more competent inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following (that is to say):—

(a) In the case of a banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(b) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the register of the Company as members.

83. The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same.

The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any inspector or inspectors.

84. It shall be the duty of all officers and agents of the Company to produce for the examination of the inspectors all books and documents in their custody or power.

Any inspector may examine upon oath the officers and agents of the Company in relation to its business.

If any such officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each such offence.

85. Upon the conclusion of the examination, the inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs.

A copy shall be forwarded by the Local Government to the registered office of the Company, and a further copy shall, at the request of the mem-

bers upon whose application the inspection was made, be delivered to them or to any one or more of them.

All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

86. Any Company under this Act may, by a special resolution, appoint inspectors for the purpose of examining into the affairs of the Company.

The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in general meeting directs.

The officers and agents of the Company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Local Government.

87. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in such report.

88. Every prospectus of a Company, and every notice inviting persons to subscribe for shares in any joint stock Company, shall specify the dates and the names of the parties to any agreement enforceable by law which has been entered into by the Company, or the promoters, directors or trustees thereof, before the issue of such prospectus or notice (whether subject to adoption by the directors or the Company, or otherwise), and which might reasonably influence a person in determining whether he would or would not become a shareholder in the Company; and any prospectus or notice not specifying the same shall be deemed fraudulent on the part of the promoters, directors and officers of the Company knowingly issuing the same, as regards any person taking shares in the Company on the faith of such prospectus, unless he has had notice of such contract.

Notices.

89. Any summons, notice, order or other document required to be served upon the Company may be served by leaving the same, or sending it through the post by a registered letter addressed to the Company, at their registered office; and any notice to the Registrar of joint stock Companies

may be served by sending it to him through the post by a registered letter, or by delivering it to him or by leaving it for him at his office.

90. Every document to be served by post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and, in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the post office.

91. Any summons, notice, order or proceeding requiring authentication by the Company may be signed by any director, secretary or other authorized officer of the Company, and need not be under the common seal of the Company; and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

92. Every Company under this Act shall cause minutes of all resolutions and proceedings of general meetings of the Company, and of the directors or managers of the Company in cases where there are directors or managers, to be duly entered in books to be from time to time provided for the purpose; and any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings.

Until the contrary is proved, every general meeting of the Company or meeting of directors or managers in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had, and all appointments of directors, managers or liquidators shall be deemed to be valid, and all acts done by such directors, managers or liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Explanation.—Nothing in this section shall be deemed to give validity to acts done by a liquidator after his appointment has been shown to be invalid.

93. Where a limited Company is plaintiff in any suit, if it appears from the evidence adduced that there is reason to believe that, if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, any Judge having jurisdiction in the matter may require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

94. In any suit brought by the Company against any member to recover any call or other monies

due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Alteration of Forms.

95. The forms set forth in the second schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer.

The Governor General in Council may from time to time make such alterations in the tables and forms contained in the first schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said schedule mentioned, and in the forms in the second schedule, or make such additions to the last-mentioned forms, as he deems requisite.

Any such table or form, when altered, shall be published in the *Gazette of India*, and, upon such publication being made, such table or form shall have the same force as if it were included in the schedule to this Act; but no alteration made by the Governor General in Council in the table marked A contained in the first schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such table.

Arbitrations.

96. Any Company under this Act may from time to time, by writing under its common seal, agree to refer, and may refer, to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons, to whom the reference is made, power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the directors or other managing body of such Companies.

97. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions or stipulations thereof.

98. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

99. Where the Companies agree, the reference shall be made to a single arbitrator.

100. Except where the Companies agree that Reference to two or more arbitrators. the reference shall be made to a single arbitrator, the reference shall be made as follows, to wit:—

where there are two Companies, the reference shall be made to two arbitrators;

where there are three or more Companies, the reference shall be made to so many arbitrators as there are Companies.

101. Where there are to be two or more arbitrators, every Company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other Company or Companies.

102. Where there are to be two or more arbitrators, if any of the Companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an arbitrator, may appoint an arbitrator. The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

103. Where the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

104. Where the Company, by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an arbitrator.

The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

105. When any appointment of an arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

106. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands

an impartial and qualified person to be their umpire.

107. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an umpire; and the umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators.

108. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

109. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their umpire, then, on the application of the Companies or any of them, the Local Government may appoint an umpire.

The umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators so failing.

110. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

111. Where there are two or more arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

112. The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath.

113. Except where and as the Companies otherwise agree, the arbitrator, and the arbitrators and the umpire respectively may proceed in the business

of the reference in such manner as he and they respectively shall think fit.

114. The arbitrator, and the arbitrators and the umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the arbitrator, or the arbitrators or the umpire shall think fit so to proceed.

115. The arbitrator, and the arbitrators and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred.

Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or, in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

116. The award of the arbitrator, or of the arbitrators or of the umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators or the umpire, shall be binding and conclusive on all the Companies.

117. Provided always that (except where and as the Companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

118. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

119. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered shall be done, omitted or suffered accordingly.

120. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and

the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

121. Except where and as the Companies otherwise agree, the costs of arbitration and attending the arbitration and the award shall be in the discretion of the arbitrator, and the arbitrators and the umpire respectively.

122. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

123. On the application of any party interested, the submission to any such arbitration may be filed in the Court. High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

124. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

125. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful, in the case of the insolvency of any contributory, to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes situate outside the towns of Calcutta, Madras and Bombay.

126. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives,

heirs and devisees shall be liable in due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory; and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

127. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Winding-up by Court.

128. A Company under this Act may be wound up by the Court as hereinafter defined under the following circumstances (that is to say):—

(a) whenever the Company has passed a special resolution requiring the Company to be wound up by the Court;

(b) whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year;

(c) whenever the members are reduced in number to less than seven;

(d) whenever the Company is unable to pay its debts;

(e) whenever for any other reason of a like nature the Court is of opinion that it is just and equitable that the Company should be wound up.

129. A Company under this Act shall be deemed to be unable to pay its debts—

(a) whenever a creditor, by a judgment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor;

(b) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company is returned unsatisfied in whole or in part;

(c) whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

130. The expression "the Court" as used in this Part of this Act shall mean the principal Court having original civil jurisdiction in the place in

which the registered office of the Company is situate, unless in the regulations for the management of the Company it shall be stipulated that the Company, if wound up, shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Panjab, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original civil jurisdiction.

The expression "debts" as used in this Part of this Act means debts actually due, of which the creditor could claim immediate payment, except in the case of a Company issuing or liable under policies of assurance upon human life within British India, or granting annuities upon human life within British India. In the case of such a Company (hereinafter called a life-assurance Company), the expression "debts," as so used, includes also contingent or prospective liability under policies and annuity and other existing contracts.

131. Any application to the Court for the winding-up of a Company under this Act shall be by petition. The petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories, of the Company, or by all or any of the above parties, together or separately.

The petition must allege facts which, if proved, will justify an order for winding-up the Company. Every order which may be made on any such petition shall operate in favour of all the creditors and all the contributories of the Company in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

In the case of a life-assurance Company the Court shall not give a hearing to the petition until security for costs for such amount as the Judge thinks reasonable is given, and until a *prima facie* case is also established to the satisfaction of the Judge; and, where the Company has an uncalled capital of an amount sufficient, with the future premiums receivable by the Company, to make up the actual invested assets equal to the amount of the estimated liabilities, the Court shall suspend further proceedings on the petition for a reasonable time to enable the uncalled capital, or a sufficient part thereof, to be called up; and, if at the end of the original or any suspended time for which the proceedings have been suspended such an amount has not been realised by means of calls as with the already invested assets is equal to the liabilities, an order shall be made on the petition as if the Company had been proved to be unable to pay its debts.

Explanation.—Nothing in this section authorizes the presentation of a petition by a member of a Company who is indebted to the Company in respect of a call made, or other moneys due.

132. No contributory of a Company under this Act shall be capable of presenting a petition for winding-up such Company unless the members of the Company

Contributory when not qualified to present winding-up petition.

are reduced in number to less than seven, or unless the shares in respect of which he is a contributory, or some of them, either were originally allotted to him, or have been held by him, and registered in his name, for a period of at least six months during the eighteen months previous to the commencement of the winding-up, or have devolved upon him through the death of a former holder:

Provided that, where a share has, during the whole or any part of the six months been held by or registered in the name of the wife of a contributory either before or after her marriage, or by or in the name of any trustee for such wife, or for the contributory, such share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the contributory.

133. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

134. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act, and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit.

The Court may also at any time after the presentation of such petition, and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the Company.

135. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

136. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose.

137. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of joint stock Companies, who shall make a minute thereof in his books relating to the Company.

Such order shall be deemed to be notice of discharge to the servants of the Company, except when the business of the Company is continued.

138. Such Court may, at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such

winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

139. When an order has been made for winding-up a Company limited

Effect of order on share-capital of Company limited by guarantee. by guarantee and having a capital divided into shares, any share-capital that may

not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

140. The Court may, as to all matters relating

Court may have regard to wishes of creditors or contributories. to the winding-up, have regard to the wishes of creditors or contributories as

proved to it by any sufficient evidence, and may, if it thinks fit, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard is to be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Official Liquidators.

141. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court

Appointment of official liquidator. therein, there may be appointed a person or persons, to be called an official liquidator or official liquidators.

The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidator or official liquidators.

In all cases, if more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act hereby required or authorized to be done by the official liquidator is to be done by all or any one or more of such persons.

The Court may also determine whether any, and what, security is to be given by any official liquidator on his appointment.

If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

A receiver shall not be appointed of assets in the hands of an official liquidator.

142. Any official liquidator may resign or be

Resignations, removals, filling up vacancies and compensation. removed by the Court on due cause shown. Any vacancy in the office of an official

liquidator appointed by the Court shall be filled up

by the Court. There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and, if more liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

143. The official liquidator shall be described by the style of the official liquidator of the particular Company in respect of which he

Style and duties of official liquidator. is appointed, and not by his individual name. He shall take into his custody, or under his control, all the property, effects and actionable claims to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

144. The official liquidator shall have power, with the sanction of the Court, to do the following

Power of official liquidator. things:—

(a) to bring or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the Company;

(b) to carry on the business of the Company so far as may be necessary for the beneficial winding-up of the same;

(c) to sell the immoveable and moveable property of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels;

(d) to do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the Company's seal;

(e) to prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors;

(f) to draw, accept, make and endorse any bill of exchange, hundi or promissory note in the name and on behalf of the Company; also to raise, upon the security of the assets of the Company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making or endorsing of every such bill, hundi or note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof;

(g) to take out, if necessary, in his official name, letters of administration to the estate of any deceased contributory, and to do, in his official name, any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and, in all cases where he takes out letters of

administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the official liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties and privileges of the Administrators General of Bengal, Madras and Bombay respectively;

(h) to do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

145. The Court may provide by any order Discretion of official liquidator. that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

146. The official liquidator may, with the sanction of the Court, appoint Appointment of attorney or vakil to official liquidator. an attorney or vakil to assist him in the performance of his duties: Provided that, where the official liquidator is an attorney, he shall not appoint his partner, unless the latter consents to act without remuneration.

Ordinary Powers of Court.

147. As soon as may be after making an order Collection and application of assets. for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of section fifty-eight, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities existing at the date of the said order.

148. In settling the list of contributories, the Provision as to representative contributories. Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of, or being liable to the debts of, others.

149. The Court may, at any time after making Power of Court to require delivery of property. an order for winding-up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker or agent or officer of the Company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the official liquidator, any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being, and to which the Company is *prima facie* entitled.

150. The Court may, at any time after making Power of Court to order payment of debts by contributory. an order for winding-up the Company, make an order on any contributory for the

time being settled on the list of contributories directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he, or the estate of the person whom he represents, may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this part of this Act.

The Court may, in making such order, when the Company is not limited, allow to such contributory, by way of set-off, any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits:

Provided that, when all the creditors of any Company, whether limited or unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

In the event of the winding-up of any limited Company, the Court, if it thinks fit, may make to any director or manager of such Company whose liability is unlimited the same allowance by way of set-off as under this section it may make to a contributory where the Company is not limited.

151. The Court may, at any time after making Power of Court to make calls. an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on, and order payment thereof by, all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves.

The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

152. The Court may order any contributory, Power of Court to order payment into Bank. purchaser or other person from whom money is due to the Company to pay the same into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the official liquidator instead of to the official liquidator; and such order may be enforced in the same manner as if it had directed payment to the official liquidator.

153. All monies, bills, hundis, notes and other Regulation of account with Court. securities paid and delivered into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be

subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same as the Court may direct.

154. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereof of the monies due.

155. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due; and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

156. The Court may fix a certain day or certain days on or within which creditors not proving creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

157. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

158. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges and expenses incurred in winding-up any Company in such order of priority as the Court thinks just.

159. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order, and the Company shall be dissolved accordingly.

160. Any order so made shall be reported by the Registrar to make the official liquidator to the minute of dissolution of Company, who shall make a minute accordingly in his books of the dissolution of such Company.

161. If the official liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default.

Extraordinary Powers of Court.

162. The Court may, after it has made an order for winding-up the Company, summon before it any officer of the Company, or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company.

If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination.

The Court may require any such officer or person to produce any documents in his custody or power relating to the Company. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

163. The Court may examine upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

164. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

165. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate; and such proceedings may be instituted accordingly.

Enforcement of, and Appeal from, Orders.

166. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

167. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India, other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

168. Where any order or decree made by one Court is required to be enforced by another Court as hereinafter provided, a certified copy of the order or decree so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made; and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

169. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding-up of a Company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of appeal.

170. In all proceedings under this Part of this Act, every Court, Judge and person judicially acting, and all other officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of any other Court, and also of the official seal of any other Court, when such seal is appended to any document made, issued or signed under the provisions of this Part of this Act, or any official copy thereof.

171. The Judges of the District Courts, who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any

Company is wound up in a High Court; and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company.

Every such Commissioner shall, in addition to any power of summoning and examining witnesses and requiring the production or delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses, and requiring the production or delivery of documents, and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

172. If any affidavit, affirmation or declaration, required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any colony, island, plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Part of this Act.

Voluntary Winding-up of Company.

173. A Company under this Act may be wound up voluntarily—

(a) whenever the period, if any, fixed for the duration of the Company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of association that the Company is to be dissolved, and the Company in general meeting has passed a resolution requiring the Company to be wound up voluntarily;

(b) whenever the Company has passed a special resolution requiring the Company to be wound up voluntarily;

(c) whenever the Company has passed an extraordinary resolution to the effect that it has been proved to its satisfaction that the Company cannot by reason of its liabilities continue its

business, and that it is advisable to wind up the same :

For the purposes of this Act any resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a special resolution as hereinbefore defined.

174. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing such winding-up. Commencement of voluntary winding up

When the winding-up is in pursuance of a special resolution, it shall be deemed to commence at the time of the passing, under section seventy-seven, of the confirmatory resolution.

175. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alteration in the status of the members of the Company, taking place after the commencement of such winding-up, shall be void; but its corporate state and all its corporate powers shall, notwithstanding that its regulations otherwise provide, continue until the affairs of the Company are wound up. Effect of voluntary winding-up on status of Company.

176. Notice of any special resolution or extraordinary resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local official Gazette, and also in some newspaper (if any) circulating in the place where the registered office of the Company is situate. Notice of resolution to wind up voluntarily.

177. The following consequences shall ensue upon the voluntary winding-up of a Company :— Consequence of voluntary winding-up.

(a) the assets of the Company shall be applied in satisfaction of its liabilities *pari passu* as they exist at the commencement of the winding-up, and subject thereto shall, unless the regulations of the Company otherwise provide, be distributed amongst the members according to their rights and interests in the Company :

(b) liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the assets :

(c) the Company in general meeting shall appoint such persons as it thinks fit to be liquidators, and may fix the remuneration to be paid to them

(d) if one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him :

(e) upon the appointment of liquidators, all the powers of the directors shall cease, except in so far as the Company in general meeting, or the liquidators, may sanction the continuance of such powers :

(f) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two :

(g) the liquidators may, without the sanction of the Court, exercise all powers by this Act given to the official liquidators :

(h) the liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories :

(i) the liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same :

(j) the liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

178. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the liquidators. Effect of winding-up on share-capital of Company limited by guarantee.

179. A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an extraordinary resolution, delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators or any of them, and supplying any vacancies in the appointment of liquidators, or may, by a like resolution, enter into any arrangement with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised. Power of Company to delegate authority to appoint liquidators.

Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

180. Any arrangement which a Company about to be wound up voluntarily, or in the course of being wound up voluntarily, shall have entered into with its creditors shall be binding on the Company if sanctioned by an extraordinary resolution. Arrangement when binding on creditors.

nary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is herein-after mentioned.

181. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

Power of creditor or contributory to appeal.

182. Where a Company is being wound up voluntarily, the liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise, as respects the enforcing of calls or in respect of any other matter, all or any of the powers which the Court might exercise if the Company were being wound up by the Court. Any such application may be made by motion. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

Power for liquidators or contributories in voluntary winding-up to apply to Court.

183. Where a Company is being wound up voluntarily, the liquidators may, from time to time, during the continuance of such winding-up, summon general meetings of the Company for the purpose of obtaining the sanction of the Company by special resolution or extraordinary resolution, or for any other purposes they think fit.

Power of liquidators to call general meeting.

In the event of the winding-up continuing for more than one year, the liquidators shall summon a general meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding-up has been conducted, during the preceding year.

184. If any vacancy occurs in the office of liquidators appointed by the Company, by death, resignation or otherwise, the Company in general meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy; and a general meeting for the purpose of filling up such vacancy may be convened by the continuing liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing liquidator, if any, or by any contri-

Power to fill up vacancy in office of liquidators.

butory of the Company, be determined by the Court.

185. If, from any cause whatever, there is no liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a liquidator or liquidators. The Court may also, on due cause shown, remove any liquidator and appoint another liquidator to act in the matter of a voluntary winding-up.

Power of Court to appoint liquidators.

186. As soon as the affairs of the Company are fully wound up, the liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of: and thereupon they shall call a general meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the liquidators.

Liquidators on conclusion of winding-up to make up an account.

The meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting in the manner specified in section one hundred and seventy-six.

187. The liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held; and, on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved.

Liquidators to report meeting to Registrar.

If the liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

188. All costs, charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the liquidators, shall be payable out of the assets of the Company in priority to all other claims.

Costs of voluntary liquidation.

189. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

Saving of rights of creditors.

190. Where a Company is in course of being wound-up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound-up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Power of Court to adopt proceedings of voluntary winding-up.

Winding-up subject to the Supervision of the Court.

191. When a resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

192. A petition praying wholly or in part that a voluntary winding-up shall continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

193. The Court may, in determining whether a Company is to be wound up altogether by the Court, or subject to the supervision of the Court, in the appointment of a liquidator or of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard shall be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

194. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional liquidator.

Any liquidator so appointed by the Court shall have the same powers, be subject to the same obligations and in all respects stand in the same position, as if he had been appointed by the Company.

The Court may, from time to time, remove any liquidator so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

195. Where an order is made for a winding-up subject to the supervision of the Court, the liquidator appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily.

Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court.

In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidators, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding-up subject to the supervision of the Court.

196. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other person, to be official liquidators.

Supplemental Provisions.

197. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up, shall, unless the Court otherwise orders, be void.

198. Where any Company is being wound up, all books, accounts and documents of the Company and of the liquidators shall, as between the contributories of the Company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

199. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the liquidator may be disposed of in the following way; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and, where the Company has been wound up voluntarily, in such way as the Company by an extraordinary resolution directs.

But, after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

200. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

201. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the liquidator may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

202. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the liquidator to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

203. Where any compromise or arrangement shall be proposed between a Company which is, at the commencement of this Act or afterwards, in the course of being wound up either voluntarily or by or under the supervision of the Court, and the creditors of such Company, or any class of such creditors, it shall be lawful for the Court, in addition to any other of its powers, on the application in a summary way of any creditor or the liquidator, to order that a meeting of such creditors or class of creditors shall be summoned in such manner as the Court shall direct; and, if a majority in number, representing three-fourths in value, of such creditors or class of creditors present either in person or by proxy at such meeting shall agree to any arrangement or compromise, such arrangement or compromise shall, if sanctioned by an order of the Court, be

binding on all such creditors or class of creditors, as the case may be, and also on the liquidator and contributories of the said Company.

204. Where any Company is proposed to be, or is in the course of being, wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the liquidators of the first-mentioned Company may, with the sanction of a special resolution of the Company by whom they were appointed, conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, receive, in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of, or receive any other benefit from, the purchasing Company.

Any sale made, or arrangement entered into, by the liquidator in pursuance of this section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favour of the special resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such special resolution in writing addressed to the liquidators or one of them, and left at the registered office of the Company not later than seven days after the date of the meeting at which such special resolution was passed, such dissentient member may, by writing addressed and left as last aforesaid, require the liquidator to do one of the following things as the liquidator may prefer (that is to say):—either to abstain from carrying such resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned; such purchase-money to be paid before the Company is dissolved, and to be raised by the liquidator in such manner as may be determined by special resolution.

No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to, or concurrently with, any resolution for winding-up the Company or for appointing liquidators; but, if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such resolution shall not be of any validity unless it is sanctioned by the Court.

205. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

206. When any dispute so directed to be settled by arbitration has arisen, then, unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred.

After any such appointment has been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation.

If for the space of fourteen days after any such dispute has arisen, and after a request in writing has been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters in dispute; and in such case the award or determination of such single arbitrator shall be final.

207. If, before the matters so referred are determined, any arbitrator appointed by either party die, or become incapable or refuse, or for seven days neglect, to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal or disability as aforesaid.

208. Where more arbitrators than one have been appointed, they shall, before entering upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ.

If such umpire die, or refuse, or for seven days neglect, to act, they shall forthwith, after such death, refusal or neglect, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

209. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath.

210. The costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpire, as the case may be.

211. On the application of either of the parties, the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

212. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put in force, without the leave of the Court, against the estate or effects of the Company after the commencement of the winding-up shall be void.

Nothing in this section applies to proceedings by the Government.

213. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property, which would, if made or done by or against any individual trader, be deemed, in the event of his insolvency, to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly.

For the purposes of this section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees, for the benefit of all its creditors, shall be void.

214. Where, in the course of the winding-up of any Company under this Act, it appears that any past or present director, manager, official or other liquidator, or any officer of such Company, has misapplied or retained in his own hands, or become liable or accountable for, any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any liquidator or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager or other officer, and compel him to repay any monies so misapplied or retained, or for which such officer has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misap-

plication, retainer, misfeasance or breach of trust, as the Court thinks just.

Explanation I.—The banker of a Company is not, as such, an officer within the meaning of this section.

Explanation II.—Proceedings cannot be taken under this section against the representatives of a deceased officer.

215. If any director, officer or contributory of any Company wound up under this Act destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any register, book of account or other document belonging to the Company, with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

216. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present director, manager, officer or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the official liquidators or the liquidators (as the case may be) to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

217. If any person, upon any examination upon oath authorized under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years and shall also be liable to fine.

218. Where the High Court makes an order for winding-up a Company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court; and thereupon such District Court shall, for the purpose of winding-up the Company, be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding-up, all the jurisdiction and powers of the High Court.

219. If during the progress of a winding-up in a District Court it is made convenient to transfer the winding-up from one District Court to another, that the same could be more conveniently prosecuted in any other District Court, the High Court may transfer the same to

such other Court, and thereupon the winding-up shall proceed in such other District Court.

PART V.

REGISTRATION-OFFICE.

Constitution of registration-office.

220. The registration of Companies under this Act shall be conducted as follows (that is to say) :—

(a) The Local Government may, after the sanction of the Governor General in Council to the creation of any such offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure :

(b) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, clerks and servants as aforesaid :

(c) The Local Government may from time to time determine the places at which offices for the registration of Companies are to be established, so that there be at all times maintained in each of the towns of Calcutta, Madras and Bombay at least one such office, and that no Company shall be registered except at an office within that part of British India in which, by the memorandum of association, the registered office of the Company is declared to be established :

(d) The Local Government may from time to time direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies :

(e) Every person may inspect the documents kept by the Registrar of joint stock Companies. There shall be paid for such inspection such fees as may be directed by the Local Government, not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may direct, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract :

(f) The existing Registrar, Assistant Registrars, clerks and other officers and servants in the office for the registration of joint stock Companies shall, during the pleasure of the Local Government, hold the offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government :

(g) There shall be paid to any Registrar, Assistant Registrar, clerk or servant that may hereafter be employed in the registration of joint stock Companies such salary as the Local Government

may, with the sanction of the Governor General in Council, direct :

(4) Whenever any act is herein directed to be done to or by the Registrar of joint stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of joint stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But, in the event of the Local Government altering the constitution of the existing registry-office, such act shall be done to or by such officer or officers, and at such place or places with reference to the local situation of the registered offices of the Companies to be registered, as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES ACTS.

221. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860, or either of them, in the same manner, in the case of a limited Company, as if such Company had been formed and registered under this Act as a Company limited by shares, and, in the case of a Company other than a limited Company, as if such Company had been formed and registered as an unlimited Company under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by special resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that such regulations are contained in the memorandum of association.

222. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

223. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

224. With the exceptions made in the next following section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament or Act of the Governor General in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

225. The following regulations shall be observed with respect to the registration of Companies under this Part of this Act (that is to say) :—

(a) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, and not being a joint stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof :

(b) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an unlimited Company, or as a Company limited by guarantee :

(c) No life-assurance Company existing at the time of the commencement of this Act, and no Company that is not a joint stock Company as hereinafter defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares :

(d) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present personally, or by proxy in cases where proxies are allowed by the regulations of the Company, at some general meeting summoned for the purpose :

(e) Where a Company, not having the liability of its members limited by Act of Parliament, or Act of the Governor General in Council, or by

Letters Patent, is about to register as a limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned general meeting:

(✓) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

226. For the purposes of this Part of this Act, Definition of "joint stock Company." so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a joint stock Company shall be deemed to be a Company having a permanent paid up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such Company, when registered with limited liability under this Act, shall be deemed to be a Company limited by shares.

227. Previously to the registration, in pursuance of this Part of this Act, of any joint stock Company, there shall be delivered to the Registrar the following documents (that is to say):—

(a) A list showing the names, addresses and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number:

(b) A copy of any Act of Parliament or Act of the Governor General in Council, Royal Charter, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company:

(c) If any such joint stock Company is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement

specifying the following particulars (that is to say):—

the nominal capital of the Company and the number of shares into which it is divided;

the number of shares taken and the amount paid on each share;

the name of the Company, with the addition of the word "limited" as the last word thereof;

with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

228. Previously to the registration in pursuance of this Part of this Act of any Company not being a joint stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the directors or other managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor General in Council, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

229. Where a joint stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement, not more than six clear days before the day of registration.

230. The lists of members and directors and any other particulars relating to the Company hereby required to be delivered to the Registrar shall be verified by declaration of the directors of the Company delivering the same, or any two of them, or of any two other principal officers of the Company, made before a Justice of the Peace or a District Judge.

231. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a joint stock Company as hereinbefore defined.

232. Every banking Company existing at the date of the passing of this Act which registers itself as a limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and

partnership firm having a banking account with the Company.

Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company.

In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

233. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a limited Company, or where, previously to its being registered as a limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor General in Council, or by Letters Patent.

234. Any Company authorized by this Part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "limited."

235. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the tables marked B and C in the first schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited; and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

236. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a limited or unlimited Company, as the case may be; and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

237. All such property, moveable and immovable, including all interests and rights in, to and out of

property, moveable and immovable, and including obligations and actionable claims, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

238. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of, such Company previously to such registration.

239. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid; but, in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

240. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and articles of association; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following (that is to say):—

(a) That table A in the first schedule to this Act shall not, unless adopted by special resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(b) That the provisions of this Act relating to the numbering of shares shall not apply to any joint stock Company whose shares are not numbered:

(c) That no Company shall have power to alter any provisions contained in any Act of Parliament, Act of the Legislative Council or Act of the Governor General in Council relating to the Company:

(d) That no Company shall have power, without the sanction of the Governor General in Council, to alter any provision contained in any Letters Patent relating to the Company :

(e) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply :

(f) Nothing herein contained shall authorize any Company to alter any such provisions contained in any deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act :

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company.

241. The Court may, at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

242. Where an order has been made for winding-up a Company registered in pursuance of this Part of this Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with

against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

243. Subject as hereinafter mentioned, any Partnership, Association or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor General in Council, consisting of more than seven members and not registered under this Act, and hereinafter included under the term "unregistered Company," may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions :—

(1) An unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate, or, if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered office of the Company :

(2) No unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court :

(3) The circumstances under which an unregistered Company may be wound up are as follows (that is to say) :—

(a) whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs ;

(b) whenever the Company is unable to pay its debts ;

(c) whenever the Court is of opinion that it is just and equitable that the Company should be wound up :

(4) An unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the secretary or some director or

principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor ;

(b) whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the secretary or some director, manager or principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not, within ten days after service of such notice, paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same ;

(c) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied ;

(d) whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

244. In the event of an unregistered Company

Who to be deemed a contributory in the event of Company being wound up.

being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the

payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company.

Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid.

In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

245. The Court may, at any time after the

Power of Court to restrain further proceedings.

making of an application for winding-up an unregistered Company, and before making

an order for winding-up the Company, upon the

application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

246. Where an order has been made for wind-

Effect of order for winding-up an unregistered Company.

ing-up an unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

247. If any unregistered Company has no

Provision in case of power to sue and be sued in unregistered Company.

a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims and rights into and out of property, moveable and immoveable, and including actionable claims, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company, or any part of such property, is to vest in the official liquidator or official liquidators by his or their official name or names ; and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the official liquidator or official liquidators may, in his or their official name or names, or in such name or names, and after giving such indemnity, as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

248. The provisions made by this Part of this

Provisions of this Act with respect to unregistered Companies shall be deemed to be made in addition to, and not in restriction of, any provisions

hereinbefore contained with respect to winding-up Companies by the Court.

The Court or official liquidator may, in addition to anything contained in this Part of this Act, exercise any powers or do any act in the case of unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act ; but an unregistered Company shall not, except in the event of its being wound-up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

MISCELLANEOUS PROVISIONS.

249. No Company under

Company not to buy its own shares.

this Act shall have power to buy its own shares.

250. Where, previously to the commencement of this Act, an order has been made for winding-up a Company under the Indian Companies Act, 1866, or a resolution has been passed for winding-up a Company voluntarily, such Company shall be wound-up in the same manner and with the same incidents as if this Act were not passed; and, for the purposes of such winding-up, the Indian Companies Act, 1866, shall be deemed to remain in full force.

251. Where, previously to the commencement of this Act, any conveyance, mortgage-deed or other instrument has been made in pursuance of the Indian Companies Act, 1866, such instrument shall be of the same force as if this Act had not passed; and, for the purposes of such instrument, the Indian Companies Act, 1866, shall be deemed to remain in full force.

252. All offences under this Act may be tried by any Magistrate of the first class, unless the period of imprisonment to which the offender is liable exceeds that which such officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such officer, the offender shall be committed for trial before the Court of Session.

If any offence which by this Act is declared to be punishable by any penalty is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

253. Subject to the provisions hereinbefore contained, the Court may, in any proceedings under this Act, make such order as to costs as it thinks fit.

254. The High Court may from time to time make rules, consistent with this Act and with the Code of Civil Procedure, concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the subdivision of the shares of a Company.

255. In sections 1 and 18 of Act No. XXI of 1860 (*for the registration of Literary, Scientific and Charitable Societies*), the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of joint stock Companies under this Act or any Act for the time being in force.

256. Save as provided in sections one hundred and fifty-two and one hundred and fifty-three, nothing in this Act shall be deemed

to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares.

(4.) The directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5.) A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the monies due upon the shares held by him beyond the sums actually called for; and, upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register-book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, *A B*, of _____, in consideration of the sum of rupees _____ paid to me by *C D*

of _____, do hereby transfer to the said *C D* the share (or shares) numbered _____ standing in my name in the books of the Company, to hold unto the said *C D*, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said *C D*, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands, the _____ day of _____

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place

appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in general meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The directors may, with the sanction of the Company previously given in general meeting, convert any paid up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interest, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The directors may, with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares; such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first general meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the directors may determine.

(30.) Subsequent general meetings shall be held, once at the least in every year, at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(32.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an extraordinary general meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(34.) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members amounting to the

required number, may themselves convene an extraordinary general meeting.

Proceedings at General Meeting.

(35.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(37.) No business shall be transacted at any general meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows, that is to say:—if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If, within one hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week, at the same time and place; and if, at such adjourned meeting, a quorum is not present, it shall be adjourned *sine die*.

(39.) The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the Company.

(40.) If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

(41.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43.) If a poll is demanded by five or more

members, it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the Company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or, if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form:—

Company, Limited.

I, _____, of _____,
being a member of the
Company, Limited, and entitled to
vote or _____ votes, hereby appoint
of _____, as my proxy, to vote for me and on
my behalf at the (ordinary or extraordinary, as
the case may be) general meeting of the Company
to be held on the _____ day of _____,
and at any adjournment thereof (or at any meet

ing of the Company that may be held in the year _____). As witness my hand, this.

day of _____
Signed by the said _____ in the presence of

Directors.

(52.) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54.) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56.) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The office of director shall be vacated—
if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the Company;

if he becomes bankrupt or insolvent;

if he is punished under any of the penal provisions of the foregoing Act;

if he is concerned in or participates in the profits of any contract with the Company.

But the above rules shall be subject to the following exceptions:—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is director; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of Directors.

(58.) At the first ordinary meeting after the registration of the Company, the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year, one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59.) The one-third or other nearest number to

retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring director shall be re-eligible.

(61.) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If, at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65.) The Company in general meeting may, by a special resolution, remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

(67.) The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

(68.) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall, in the exercise of the

powers so delegated, conform to any regulations that may be imposed on it by the directors.

(69.) A committee may elect a chairman of its meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

(70.) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and, in case of an equality of votes, the chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends.

(72.) The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The directors shall cause true accounts to be kept—

of the stock in trade of the Company;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

of the credits and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

(83.) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The auditors may be members of the Company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company; and no director or other officer of the Company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the directors; that of subsequent

auditors shall be fixed by the Company in general meeting.

(89.) Any auditor shall be re-eligible on his quitting office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92.) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Dr. Balance-sheet (a) of the Company made up to 18 Cr.

CAPITAL AND LIABILITIES.		PROPERTY AND ASSETS.	
	Rs.		Rs.
I. CAPITAL,		AS	
1 The number of shares	SHOWING—	III PROPERTY HELD BY THE COMPANY,	SHOWING—
2 The amount paid per share	"	7 Immovable property—distinguishing—	"
3 If any arrears of calls, the nature of the arrears and the names of the defaulters	"	(a) Freehold land	"
4 The particulars of any forfeited shares	"	(b) Buildings	"
5 The amount of loans on mortgages or debenture bonds	SH WING—	(c) Leasehold	"
6 The amount of loans owing by the Company—distinguishing—	"	8 Movable property—distinguishing—	"
(a) Debts for which securities have been given	"	(a) Stock in trade	"
(b) Debts to trade-men for supplies of stock in trade or other articles	"	(b) Debtors	"
(c) Debts for law-expenses	"	(c) The cost to be added with deductions for depreciation in value as charged to the reserve fund or profit and loss	"
(d) Debts for interest on debentures or other loans	"	9 Debts considered good for which the Company hold bills or other securities	"
(e) Unclaimed dividends	"	10 Debts considered doubtful and on which the Company hold no security	"
(f) Debts not enumerated above	"	11 Any net due from a director or other officer of the Company to be separately stated	"
VI RESERVE FUND,		AS	
The amount set aside from profits to meet contingencies	SHOWING—	IV DEBTS OWING TO THE COMPANY,	
VII PROFIT AND LOSS,		V CASH AND INVESTMENTS,	
The disposable balance for payment of dividends, &c	SHOWING—	12 The nature of investment and rate of interest	"
CONTINGENT LIABILITIES		13 The amount of cash, where lodged, and if bearing interest	"
Claims against the Company not acknowledged as debts			
Monies for which the Company is contingently liable			

(a) See clauses 51 and 52 of the Memorandum of Association.

TABLE B.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose nominal capital does not exceed Rs. 20,000, a fee of ...	40	0	0
For registration of a Company whose nominal capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital; (that is to say)—			
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees ...	20	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 50,000 rupees up to 1,00,000 rupees ...	5	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 1,00,000 rupees ..	1	0	0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees, or part of 10,000 rupees, as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account, in the case of fees payable on an increase of capital after registration, the fees paid on registration.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ...	5	0	0

TABLE C.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company not having a capital divided into shares:—

	Rs.	A.	P.
For registration of a Company whose number of members, as stated in the articles of association, does not exceed 20	40	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100.			
For registration of a Company in which the number of members is stated in the articles of association to be unlimited, a fee of ...	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The Capital of the Company is Rs. ,
divided into shares of each.
The number of shares issued is . Calls to

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

the amount of Rs. per share have been made, under which the sum of Rs. has been received.

The liabilities of the Company on the first day of January (or July) were:—

Debts owing to sundry persons by the Company:

Under decree, Rs.

On mortgages or bonds, Rs.

On notes, bills or hundis, Rs.

On other contracts, Rs.

On estimated liabilities, Rs.

The assets of the Company on that day were:—

Government securities [stating them], Rs.

Bills of exchange, hundis and promissory notes, Rs.

Cash at the bankers, Rs.

Other securities, Rs.

SECOND SCHEDULE.

(SEE SECTION 95.)

FORM A.

Memorandum of association of a Company limited by shares.

1st.—The name of the Company is "The Company, Limited."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—The liability of the members is limited.

5th.—The capital of the Company is Rs. divided into shares of Rs. each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:—

Names, addresses and description of subscribers.	Number of shares taken by each subscriber.
1. A. B. of ...	
2. C. D. „ ...	
3. E. F. „ ...	
4. G. H. „ ...	
5. I. J. „ ...	
6. K. L. „ ...	
7. M. N. „ ...	
Total shares taken ...	

Dated the day of
Witness to the above signatures.
O. P. of

FORM B.

Memorandum and articles of association of a Company limited by guarantee, and not having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Mutual Calcutta Marine Association, Limited."

2nd.—The registered office of the Company will be situate in Calcutta.

3rd.—The objects for which the Company is established are "the mutual insurance of ships belonging to members of the Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1.	A.	B.	of
2.	C.	D.	"
3.	E.	F.	"
4.	G.	H.	"
5.	I.	J.	"
6.	K.	L.	"
7.	M.	N.	"

Dated the day of

Witness to the above signatures.
O. P. of

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first general meeting shall be held at such time, not being more than three months after

the incorporation of the Company, and at such place, as the directors may determine.

(5.) Subsequent general meetings shall be held at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year at such place as may be determined by the directors.

(6.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(7.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an extraordinary general meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(9.) Upon the receipt of such requisition, the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(11.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows, that is to say:—if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty; with this limitation, that no quorum shall in any case exceed thirty.

(13.) If, within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting, if convened upon the requisition of the members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the following week, at the same time and place; and, if at such adjourned meeting a quorum

of members is not present, it shall be adjourned *sine die*.

(14.) The chairman (if any) of the directors shall preside as chairman at every general meeting of the Company.

(15.) If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of such meeting.

(16.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator: if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

Company, Limited.

I, _____, of _____, being a member of the Company, Limited, hereby appoint _____, of _____, as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the Company to be held on the _____ day of _____, and at any adjournment thereof

[or at any meeting of the Company that may be held in the year _____].

As witness my hand, this _____ day of _____, Signed by the said _____ in the presence of _____

Directors.

(25.) The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(26.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The directors shall be elected annually by the Company in general meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted.)

Accounts.

(29.) The accounts of the Company shall be audited by a committee of five members, to be called the audit-committee.

(30.) The first audit-committee shall be nominated by the directors out of the body of members.

(31.) Subsequent audit-committees shall be nominated by the members at the ordinary general meeting in each year.

(32.) The audit-committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The audit-committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company.

They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may, in relation to such accounts, examine the directors or any other officer of the Company.

(34.) The audit-committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance sheet containing the particulars required by these regulations and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for ex-

planations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory; and such report shall be read together with the report of the directors at the ordinary meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally, or by sending it through the post in a letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an extraordinary resolution, as defined by The Indian Companies Act, 1882, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses and Descriptions of Subscribers.

- | | | | |
|----|----------|-----|-----------|
| 1. | A. B. of | ... | Merchant. |
| 2. | C. D. of | ... | " |
| 3. | E. F. of | ... | " |
| 4. | G. H. of | ... | " |
| 5. | I. J. of | ... | " |
| 6. | K. L. of | ... | " |
| 7. | M. N. of | ... | " |

Dated the day of 18 .

Witness to the above signatures.

O. P. of

FORM C.

Memorandum and articles of association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Hotel Company, Limited."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

- | | |
|----|----------|
| 1. | A. B. of |
| 2. | C. D. of |
| 3. | E. F. of |
| 4. | G. H. of |
| 5. | I. J. of |
| 6. | K. L. of |
| 7. | M. N. of |

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the Company in general meeting, reduce the amount of shares.

3. The directors may, with the sanction of the Company in general meeting, cancel any shares belonging to the Company.

4. All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	
Total shares taken	

- | | |
|----|----------|
| 1. | A. B. of |
| 2. | C. D. of |
| 3. | E. F. of |
| 4. | G. H. of |
| 5. | I. J. of |
| 6. | K. L. of |
| 7. | M. N. of |

Total shares taken

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Memorandum and articles of association of an unlimited Company having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Patent Company."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the working of a patent method of , of which method O. P. of is the sole patentee."

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1882, and is hereby promulgated for general information:—

ACT No. VII OF 1882.

An Act to amend the law relating to Powers-of-Attorney.

FOR the purpose of amending the law relating to Powers-of-Attorney; it is hereby enacted as follows:—

- | | |
|---------------|----------------------------|
| Short title. | 1. This Act may be called |
| Act, 1882: | "The Powers-of-Attorney |
| Local extent. | It applies to the whole of |
| | British India, |
| | and it shall come into |
| Commencement. | force on the first day of |
| | May, 1882. |
2. The donee of a power-of-attorney may, if he thinks fit, execute or do any assurance, instrument or thing in and with his own name and signature, and his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument and thing so executed and done, shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the donor thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

3. Any person making or doing any payment or act in good faith, in pursuance of a power-of-attorney, shall not be liable in respect of the payment or act by reason that, before the payment or act, the donor of the power had died or become lunatic, of unsound mind, or bankrupt or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency or revocation was not, at the time of the payment or act, known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had

against the payer, if the payment had not been made by him.

This section applies only to payments and acts made or done after this Act comes into force.

4. (a) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court within the local limits of whose jurisdiction the instrument may be.

(b) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited, and a certified copy thereof shall be delivered out to him on request.

(c) A copy of an instrument so deposited may be presented at the office and may be stamped or marked as a certified copy, and, when so stamped or marked, shall become and be a certified copy.

(d) A certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument and of the deposit thereof in the High Court.

(e) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the Local Government, the fees to be taken under clauses (a), (b) and (c).

(f) Throughout British Burma, the Court of the Recorder of Rangoon shall, for the purposes of this section, be deemed to be the High Court.

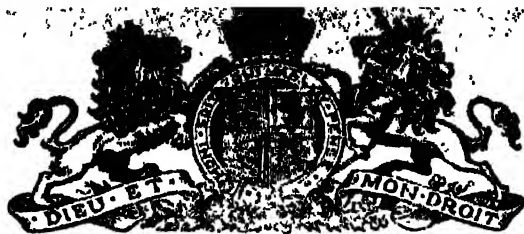
(g) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

5. A married woman, whether a minor or not, shall, by virtue of this Act, have power, as if she were unmarried and of full age, by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument or doing any other act which she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

6. The Trustees and Mortgagees Powers Act, Act XXVIII of 1866, 1866, section 39, is hereby repealed.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 4, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th February, 1882, and was referred to a Select Committee:—

No. 4 OF 1882.

A Bill to amend the Indian Railway Act, 1879.

WHEREAS it is expedient to amend the Indian Railway Act, 1879, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called "The Indian Railway Act, 1882;"
Short title. and it shall come into force at once.
Commencement.

New sections substituted for section 5 of Act IV of 1879.

2. For section five of the said Act the following sections shall be substituted, namely:—

"5. No Railway, or portion or extension of, or addition to, a Railway, shall be opened for the public conveyance of passengers until the Railway Administration has given to the Governor General in Council notice in writing of the intention of opening the same, and until the Governor General in Council has by an order in writing sanctioned the opening of the same.

"No such sanction shall be given until an officer, appointed by the Governor General in Council to inspect such Railway, portion, extension or addition, has, after inspection thereof, reported in writing to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using the same.

"Notwithstanding anything hereinbefore contained, the Governor General in Council may, in any

particular case, by a special order in writing, confer on any officer so appointed power to sanction the opening of such Railway, portion, extension or addition, if in such officer's opinion the opening of the same will not be attended with danger to the public using the same.

"In such case it shall not be necessary to make the report required by the second paragraph of this section.

"5A. The Governor General in Council may at any time cause any Railway which has been opened for the public conveyance of passengers, or any portion thereof, to be inspected by an officer appointed by him to make such inspection.

"5B. Every officer so appointed shall, for the purpose of such inspection, and subject to the control of the Governor General in Council, have the following powers, namely:—

"(a) he may enter on and inspect the Railway or portion thereof which he has been appointed to inspect;

"(b) he may by summons under his hand require the attendance of any Railway-servant whom he thinks fit to call before him and examine for the said purpose, and may require such servant to answer, or furnish returns regarding, such inquiries for the said purpose as he thinks fit to make;

"(c) he may require and enforce the production of all books, papers and documents belonging to or in the possession of any Railway Administration which in his opinion are necessary for the said purpose.

"5C. Whenever any officer so appointed to inspect any Railway or portion thereof reports in writing to the Governor General in Council that in his opinion the use of such Railway or portion will be attended with danger to the public using the same, the Governor General in Council may, by an order in writing, direct such

Railway or portion thereof to be closed for the public conveyance of passengers.

"5D. No Railway or portion thereof which has been closed under section 5C shall be re-opened for the public conveyance of passengers unless and until such Railway or portion has been inspected, and the opening thereof sanctioned, in accordance with the provisions of section five."

2. In section eight of the said Act, in clause (d), Amendment of, and the word "and" shall be addition to, section 8. omitted, and after clause (d) the following clause shall be, and be deemed to have always been, inserted:—

"(dd) for regulating the conduct of the Railway-servants, and".

New section to be substituted for section 21 of Act IV of 1879.

"21. Any Railway Administration opening, in contravention of sections 5 and 5D, and keeping open after order under section 5C.

any Railway or portion thereof open in contravention of an order of the Governor General in Council under section 5C, shall forfeit to Government the sum of one thousand rupees for every day during which the same remains open in contravention of such section or of such order of the Governor General in Council, as the case may be."

3. For section twenty-one of the said Act the following section shall be substituted:—

Administration opening, in contravention of section five, any Railway, or any portion or extension of, or addition to, a Railway, or re-opening in contravention of section 5D any Railway or portion thereof, or keeping any Railway or portion thereof open in contravention of an order of the Governor General in Council under section 5C, shall forfeit to Government the sum of one thousand rupees for every day during which the same remains open in contravention of such section or of such order of the Governor General in Council, as the case may be."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make one or two amendments of the Indian Railway Act, 1879, which the experience of the last three years has shown to be desirable.

Section 5 of the Act, as it stands at present, does not show as clearly as it should that the sanction of the Governor General in Council is necessary before any railway or portion or extension of, or addition to, a railway is opened for the public conveyance of passengers. To remedy this defect, the section has been recast by the Bill, which makes it clear that the Government Inspector has of himself authority only to inspect and report on the line for the orders of the Governor General in Council. In order, however, to prevent inconvenience in special cases, an addition has been made to the section enabling the Governor General in Council to delegate to the inspecting officer in special cases the powers of sanctioning the opening of a railway conferred on the Governor General in Council by the section.

The Act does not now empower the Governor General in Council to inspect a line after it has once been opened for the public conveyance of passengers. At present, the absence of such a power is not of much importance, as the Government has full right under its contracts with the various Railway Companies to make what inspections it likes; but, if private enterprise hereafter starts railways independent of Government, it may be seriously inconvenient to be unable to inspect such lines and ascertain whether they are being maintained in a safe and efficient state. Certain provisions have, therefore, been inserted after section 5 of the Act which empower Government to cause a line to be inspected by an officer to be appointed for the purpose, define his powers for the purpose of such inspection, authorise the Government to close any line reported not to be in a safe state for the public conveyance of passengers, and provide for the re-opening of such line only after its opening has been declared to be possible without danger to the public. An addition has also been made to section 21 imposing a penalty on any Railway Administration which does not close a railway in compliance with an order by Government to that effect, or re-opens a railway which has been closed without the sanction of Government.

Lastly, the Act, as it stands at present, does not empower Railway Administrations to impose fines by their bye-laws on their servants who may be guilty of breach of duty. This power is essential for the enforcement and maintenance of discipline on railways, and the Bill (here following the English Companies Clauses Act, 1845, sections 124, 125) confers the requisite authority.

The 11th February, 1882.

WHITLEY STOKES.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd February, 1882, and was referred to a Select Committee :—

No. 5 OF 1882.

THE BURMA STEAM-BOILERS AND
PRIME-MOVERS BILL, 1882.

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11. Power of Inspector to enter place or building.
12. Penalties.
13. Charges within what period to be brought.
14. Power to define limits of towns.
15. Power to make rules.

SCHEDULE.—FORM OF LICENSE.

A Bill to provide for the inspection of Steam-boilers and Prime-movers attached thereto in British Burma.

WHEREAS it is expedient to provide for the inspection of steam-boilers and prime-movers attached thereto in British Burma; It is hereby enacted as follows :—

I.—Preliminary.

1. This Act may be called "The British Burma Steam-boilers and Prime-movers Act, 1882";

and it shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, may direct by notification in the *British Burma Gazette*.

It extends in the first instance to the towns of Rangoon, Maulmain, Akyab and Bassein;

and the Local Government may, by notification in the *British Burma Gazette*, extend it, from such date as may be specified in the notification, to any other local area in the territories administered by such Government.

Nothing herein contained shall apply to any locomotive engine used upon a railway or to any engine on board of a ship, launch or boat.

2. In this Act, unless there is something repugnant in the subject or context,—

"Boiler" includes any vessel used for generating steam under pressure.

"Prime-mover" includes any steam-engine, and, when attached to any such engine, a fly-wheel, first driving shaft or pulley;

"Owner" includes also any person using any boiler or prime-mover as agent of the owner thereof, and any person using a boiler or prime-mover which he has hired from the owner thereof.

"Inspector" means a person appointed under this Act to be an Inspector.

II.—Inspectors and Engineers.

3. The Local Government may from time to time appoint such persons to be Inspectors as it thinks fit, and suspend or remove any person so appointed.

Such persons shall, within such local area as the Local Government may from time to time direct, exercise the powers, and perform the duties, conferred and imposed by this Act on an Inspector.

4. The Local Government may from time to

Examination of, and time make rules regulating grant of certificates to, the examination of, and the engineers. grant (with or without examination) of certificates to, persons to act as engineers of the first or second class under this Act, and the cancellation of certificates so granted.

III.—Inspection of Boilers, &c.

5. No boiler or prime-mover shall be used un-

Use of boiler or prime-mover without license prohibited. less and until a license authorizing such use has been granted hereunder, and unless such boiler or prime-mover is in charge of an engineer to whom a certificate has been granted in accordance with the rules made under section four.

6. When the owner of any boiler or prime-

On notice from owner, mover desires to obtain a license in respect thereof, he shall give notice of his intention to use the same to the Inspector for the local area within which the boiler or prime-mover is situate. On receipt of such notice, the Inspector shall appoint a day and time, after sunrise and before sunset, for the inspection of such boiler or prime-mover.

The day so appointed shall be a day, if the boiler or prime-mover is situate in Rangoon, not later than seven days, and if it is situate elsewhere, not later than thirty days, from the day on which such notice is received. On the day and at the time so appointed, the Inspector shall carefully examine such boiler or prime-mover, and every part thereof; and the owner or person in charge thereof shall afford to such Inspector all reasonable facilities for such examination and all such information regarding such boiler or prime-mover as he may reasonably require.

When any boiler or prime-mover is in charge of an engineer who has obtained under section four a certificate as engineer of the first class, the Local Government may appoint such engineer to be Inspector with regard to such boiler or prime-mover, and in that case no other Inspector shall examine such boiler or prime-mover.

7. If, on making the examination under section

Inspector may require owner to alter boiler or prime mover. six, the Inspector is of opinion that the boiler or prime-mover requires any alteration or addition, he shall refuse to grant a license until such alteration or addition is made, and shall serve on the owner of the boiler or prime-mover a written notice of such refusal specifying the alteration or addition which in such Inspector's opinion is required.

8. If the Inspector is satisfied that such boiler or

When Inspector to grant license. prime-mover is in good condition, and not so exposed as to be likely to be dangerous, and, when a notice has been served under section seven, that the alteration or addition specified in such notice has been properly made,

and that such boiler or prime-mover is in charge of an engineer to whom a certificate has been granted in accordance with the rules made hereunder,

he shall give to the owner thereof a written license signed by him in the form in the schedule

hereto annexed, on payment, by such owner, of such fee as the Local Government may by rule prescribe.

Such license shall state the period for which such boiler or prime-mover may be used, and shall cease to be in force on the expiration of such period.

9. Any person authorized by the Chief Com-

Revocation or suspension of license. missioner in this behalf may revoke or suspend any license granted under this Act in respect of any boiler or prime-mover when he has reason to believe—

(a) that such license has been fraudulently obtained, or has been granted erroneously, or without sufficient examination;

(b) that the boiler or prime-mover in respect of which it has been granted is not in charge of an engineer to whom a certificate has been granted hereunder or is not in good condition, or has, since the granting of such license, sustained injury.

10. The owner of any boiler or prime-mover may

Appeal against refusal, revocation or suspension of license. appeal from any order made hereunder refusing to grant, or revoking or suspending, a license. Such appeal shall, within seven days from the day on which such owner received the order appealed against, be presented to some person authorized by the Chief Commissioner to hear appeals hereunder. Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code, and may, if he thinks fit, summon to his assistance, in such manner as the Local Government may from time to time direct, two competent assessors, and such assessors shall attend and assist accordingly.

If such person is satisfied that such owner is entitled to such license, he shall, on payment of the fee, grant a license in the form in the schedule hereto annexed, or shall cancel the order revoking or suspending the license, as the case may be.

If such person is of opinion that the order appealed against is right, he shall dismiss the appeal, and the costs of the appeal incurred by Government and certified by him shall be recoverable from the appellant as a fine by any Magistrate having jurisdiction in the place where the boiler or prime-mover is situate.

11. Except as provided in section six, any In-

Power of Inspector to enter place or building. spector may at any time enter into any place or building, where he has reason to believe that a boiler or prime-mover is used, for the purpose of inspecting and examining the same.

12. Every owner, or person in charge, of any boiler

Penalties. or prime-mover who uses the same in contravention of the provisions of section five, and

every such owner or person who uses any boiler or prime-mover and who fails to produce the license granted hereunder in respect thereof, when called upon at any reasonable time to do so by any Magistrate having jurisdiction in the place in which such boiler or prime-mover is situate, or by any person authorized in writing by such Magistrate to demand the production of such license, and

every person who prevents an Inspector from entering, under section eleven, any place or building,

shall be punished with fine which may extend to five hundred rupees.

13. No charge of an offence under this Act shall

Charges within what period to be brought.

14. The Local Government may, from time to

Power to define limits of towns.

15. The Local Government may from time to

Power to make rules. time make rules consistent with this Act for all or any of the following purposes, that is to say—

- (a) for the appointment, suspension or removal of Inspectors;
- (b) for prescribing the powers and duties of Inspectors;
- (c) for fixing the fees payable on account of licenses granted hereunder;
- (d) for determining the time for which such licenses shall be in force;
- (e) for regulating the procedure on hearing appeals; and generally
- (f) for carrying out the purposes of this Act.

The Local Government may from time to time cancel or vary any rule made by it hereunder.

All such rules shall be published thrice in the *British Burma Gazette*, and shall come into force on the day on which they are last so published, or on such later day as may be specified in the notification publishing them.

SCHEDULE.

(See sections 7 and 9.)

FORM OF LICENSE.

[illegible]

I, the undersigned, certify that I have examined the above-named boiler (or prime-mover), and, to the best of my judgment, the boiler (or prime-mover), as shown in the above statement, is in good condition, and is not so exposed as to be likely to be dangerous. The engineer in charge is possessed of a certificate of competency or service [and (in case alterations or additions have been required) the alterations (or additions) required by me have been properly made].

A. B.,
Inspector.

STATEMENT OF OBJECTS AND REASONS.

THE recent increase in the use of steam-power in British Burma for rice-mills, sawing timber and other purposes is considerable, and will probably continue. Where the steam-engines are under the control of competent European workmen, there is not much danger of accidents; but, in Rangoon and other towns in that Province, steam-engines are sometimes placed in charge of persons who have no knowledge of steam or the steam-engine. Unless while working they are tended by skilled workmen, boilers and prime-movers are liable to speedy decay through wear and tear and neglect, and become dangerous. There is also danger from repairs to boilers and prime-movers being executed by unskilled workmen.

At present, the Government has no power of ascertaining that proper precautions are taken to prevent accidents, and it is obviously desirable, in the interests of workmen and others employed in connection with steam-engines, that such power should be given. The present Bill has accordingly been prepared on the lines of Bengal Act No. 111 of 1879, which provides for the periodical inspection of steam-boilers and prime-movers in the town and suburbs of Calcutta and in Howrah. It empowers the Local Government to appoint an inspector to examine boilers and prime-movers and to grant licenses authorizing their use; and it prohibits the use of boilers and prime-movers for which licenses have not been granted, and which are not in charge of engineers to whom certificates have been given. The Bill also gives power to the Local Government to provide for the examination of, and the grant of certificates to, persons to act as engineers of the first or second class. Where boilers and prime-movers are in charge of a first class engineer, the Bill provides that he may be appointed inspector of such boilers and prime-movers, which will not in that case be liable to any other inspection.

WHITLEY STOKES.

The 21st February, 1882.

R. J. CROSTHWAITE.

Offg Secy. to the Govt. of India.



SUPPLEMENT TO
The Gazette of India.

N^o 9. { CALCUTTA, SATURDAY, MARCH 4, 1882.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE OF INDIA will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum delivered in Calcutta or nine Rupees if sent by Post.

No official orders or Notifications the publication of which in the GAZETTE OF INDIA is required by Law, or which it has been customary to publish in the CALCUTTA GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to.

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.
[TELEGRAPH.]

ABSTRACT OF FOREIGN TRAFFIC FOR THE MONTH OF NOVEMBER 1881.

CLASS OF MESSAGES		ROUTE														TOTAL.					
		WEST						EAST													
		VIA INDIAN		VIA TURKEY		PERSIAN GULF		VIA SUZ		VIA AMER		VIA MADRAS		VIA RANGOON				NATIVE BURMA		VIA PAUMOTEN	
No	Indian Value	No	Indian Value	No	Indian Value	No	Indian Value	No	Indian Value	No	Indian Value	No	Indian Value	No	Indian Value	No	Indian Value	No	Indian Value		
INDIAN.			Rs. A.		Rs. A.		Rs. A.		Rs. A.		Rs. A.		Rs. A.		Rs. A.		Rs. A.		Rs. A.		Rs.
Sent		508	1,703 2	72	290 13	30	89 0	6,014	2,746 9	..	..	732	1,044 10	218	700 2	252	300 10	1,750	4,012 11	9,463	20,183
Received		1,053	5,617 6	110	967 11	27	87 6	1,584	2,928 10	..	..	730	2,114 2	490	1,178 7	..	..	1,700	2,608 8	8,702	31,521
TOTAL		1,561	6,880 8	182	657 8	57	176 6	10,598	10,773 3	..	..	1,462	3,799 12	637	1,947 7	252	300 10	3	6,011 8	18,165	60,704
TRANSIT																					
From East to West—																					
Received.	Via Madras	164	579 2	1	3 0	7	21 12	6,000	22,184 7	..	..	..	..	..	..	..	..	..	..	5,477	22,768
	" Rangoon	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	" Paumotun	16	69 5	..	..	2	13 15	188	1,081 5	..	..	..	..	..	..	..	..	..	..	503	1,604
From West to East—																					
Sent.	Via Madras	548	2,256 4	67	292 8	5	80 0	1,600	18,392 10	..	..	..	..	..	..	..	..	..	..	5,250	20,681
	" Rangoon	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	" Paumotun	60	953 10	10	32 0	..	..	303	1,224 9	..	..	..	..	..	..	..	..	..	..	403	1,610
From East to West—																					
Via Bombay and Karachi.		..	..	..	..	1	18	..	..	..	..	..	..	..	..	..	..	..	..	1	1
Via Karachi and Bombay.		..	..	2	3 6	1	1 11	..	..	..	..	..	..	..	..	..	..	..	..	9	5
From West to East—																					
Via Paumotun		..	..	..	..	..	..	..	..	..	..	78	357 10	3	10 1	..	..	..	..	44	367
" Madras		..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	44	314
TOTAL		818	3,238 6	80	271 10	16	99 7	10,725	43,328 13	..	..	78	357 10	8	10 1	..	..	44	214 10	11,700	47,480
GRAND TOTAL																			29,915	108,188	

ABSTRACT OF FOREIGN TRAFFIC WITH INDIA BY THE INDO-EUROPEAN AND RED SEA ROUTES FOR THE MONTH OF NOVEMBER 1881.

ROUTE.	NUMBER OF MESSAGES BY EACH ROUTE (EXCLUDING TELEGRAMS).			PERCENTAGE OF NUMBER.		
	To India	From India	TOTAL	To India	From India	TOTAL
INDO-EUROPEAN { Via Tcheran	1,053	398	1,451	18.24	6.11	11.61
" Turkey	110	72	182	1.90	1.11	1.48
" Persian Gulf and Karachi	27	30	57	0.47	0.16	0.47
RED SEA { Via Suez	4,581	6,011	10,595	79.39	92.32	86.24
TOTAL	5,771	6,511	12,285	100.00	100.00	100.00

GOVERNMENT OF INDIA.
DEPARTMENT OF FINANCE AND COMMERCE.

Comparative Statement of the Net Indian Sea and Land Customs Revenue (excluding Salt Revenue), for the first ten months of the official year 1891-92, and of the ten preceding years.
(IN THOUSANDS OF RUPEES.)

YEAR.	REVENUE					TRADE					BALANCE					TOTAL					YEAR.
	On Imports of Liquore	On Imports of other	On Exports	On Revenue	Tal Revenue	On Imports of Liquore	On Imports of other	On Exports	On Revenue	Tal Revenue	On Imports of Liquore	On Imports of other	On Exports	On Revenue	Tal Revenue	On Imports of Liquore	On Imports of other	On Exports	On Revenue	Tal Revenue	
1871-72	8,81	61.03	2,138	90.42	6,40	3,60	45.94	1,11	1,72	3,84	3.14	11.4	1.01	1.32	3.00	1.22	1.32	1.32	1.32	1.32	1871-72
1872-73	9.80	67.90	22.78	90.61	4.65	2.98	44.91	1.04	1.73	3.40	3.23	10.14	9.00	2.51	4.1	23.4	2.51	2.51	2.51	2.51	1872-73
1873-74	9.40	60.54	18.46	83.90	5.29	3.13	45.45	1.11	1.72	2.93	9.2	1.13	11.47	2.71	4.1	1.2	2.71	2.71	2.71	2.71	1873-74
1874-75	9.78	64.37	15.03	90.18	5.55	3.08	46.70	1.06	1.73	2.70	1	11.48	11.47	9.12	5.71	1.14	9.12	9.12	9.12	9.12	1874-75
1875-76	10.48	62.56	15.49	84.04	5.9	4.01	46.41	1.13	1.73	9.11	3.4	11.48	11.47	9.12	5.71	1.14	9.12	9.12	9.12	9.12	1875-76
1876-77	10.64	64.88	15.17	84.93	6.03	3.512	45.00	1.23	2.13	4.1	1	11.48	11.47	9.12	5.71	1.14	9.12	9.12	9.12	9.12	1876-77
1877-78	12.12	65.56	16.98	97.7	7.16	41.80	46.70	1.61	2.13	4.1	1	11.48	11.47	9.12	5.71	1.14	9.12	9.12	9.12	9.12	1877-78
1878-79	10.46	65.12	16.48	92.08	7.20	38.47	47.00	1.40	2.13	4.1	1	11.48	11.47	9.12	5.71	1.14	9.12	9.12	9.12	9.12	1878-79
1879-80	10.38	64.99	11.82	87.19	7.08	33.47	45.30	2.64	2.13	4.1	1	11.48	11.47	9.12	5.71	1.14	9.12	9.12	9.12	9.12	1879-80
1880-81	10.69	60.57	12.41	73.67	7.24	46.81	55.92	4.10	2.13	4.1	1	11.48	11.47	9.12	5.71	1.14	9.12	9.12	9.12	9.12	1880-81
1881-82	10.88	40.13	14.62	70.19	6.41	40.14	60.06	3.17	2.13	4.1	1	11.48	11.47	9.12	5.71	1.14	9.12	9.12	9.12	9.12	1881-82

DEPARTMENT OF FINANCE AND COMMERCE.
STATISTICAL BRANCH.
Calcutta, 25th February 1889.

T. C. HOPE,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.
RAILWAY TRAFFIC.

RETURNS OF ACCIDENTS ON INDIAN RAILWAYS FOR THE 3RD QUARTER OF 1881.

No 158 R. T., dated Fort William, 17th February 1882.

RESOLUTION—By the Government of India, Public Works Department.

Read again—

Public Works Department Circular No. 6 Ry., dated 9th February 1881.

” ” ” No. 1360 R. T., dated 12th November 1881.

Read also—

Returns of Accidents to trains, &c., on the open lines of Railway in India for the quarter ending 30th September 1881.

OBSERVATIONS.—As compared with the corresponding quarter of the previous year with an increase of 734½ miles or 8·33 per cent. in the open mileage, and of 1,321,091 miles or 19·35 per cent. in the train mileage, the number of accidents to trains, rolling-stock, permanent-way, &c., shows an increase of 25 or 4·02 per cent. The principal differences occur on the following Railways:—

	Increase.	Decrease.
Great Indian Peninsula Railway (including the State lines worked by it)	10	..
Patna and Gya State Railway	11	..
Rajputana State Railway	56	..
Holkar and Sindia-Neemuch Railway	..	12
Rangoon and Irrawaddy Valley	..	13
Punjab Northern State Railway	13	..
Indus Valley and Kandahar State Railway	..	62

2. The number of accidents on the Great Indian Peninsula Railway increased from 43 to 53. There were 8 cases of “collisions between goods trains or parts of goods trains” against nil, 13 of “goods trains or parts of goods trains, engines, &c., leaving the rails” against 28 of “cattle accidents” against 26, and 12 of “slips in cuttings or embankments” against 4.

3. On the Patna and Gya State Railway there were 9 cases of “trains running over cattle on the line” against nil, and 3 of “failure of machinery, springs, &c., of engines” against nil.

4. On the Rajputana Railway the number of accidents increased from 28 to 84. Under “trains running over cattle” there were 49 cases against 18, under “failure of machinery, springs, &c., of engines” 6 against nil, under “failure of wheels” 7 against nil, and under “failure of couplings” 8 against 1.

5. The number of accidents on the Holkar and Sindia-Neemuch Railway diminished from 18 to 6. The decrease was chiefly under “trains running over cattle,” the number being 2 against 6. There was not a single case of broken rails, whereas in the corresponding quarter of 1880 there were 4 accidents under this head.

6. On the Rangoon and Irrawaddy Valley State Railway the decrease appears to be mainly due to there being only 2 cattle accidents against 7, and no case of flooding of portions of permanent-way against 5.

7. On the Punjab Northern State Railway there was one case of “goods trains or parts of goods trains, engines, &c., leaving the rails” against 8, and 17 of “trains running over cattle” against 3.

8. On the Indus Valley and Kandahar State Railway the different kinds of accidents decreased considerably; the number of “cattle accidents” increased from 36 to 45, and the “failure of machinery, springs, &c.” decreased from 58 to 9. There were 5 cases of “fire in trains” against 11 in the corresponding period of the previous year.

9. The casualties resulting from accidents to trains, &c., were among passengers, 2 injured against nil, and among servants 10 killed and 24 injured against 1 killed and 8 injured. The largest number appears to have occurred on the Rajputana Railway where 3 servants were killed and 8 injured. Of these, 1 was killed and 5 were injured by a ballast train returning to Abu Station with brake-van foremost having come in contact with a cow. Three trucks out of 12 composing the train and the brake-van were derailed, injuring 2 women and 3 men severely, and the guard slightly, one of the women having eventually died. The vehicles derailed were considerably damaged, and several sleepers at

site broken. The accident was due to there being no fencing at that portion of the line between Abu Road and Roh. The other accident was caused by the trolley of a Permanent-way Sub-Inspector having come in contact with a down goods train; in this 2 trolley-men were killed, and 2 others and the Sub-Inspector slightly injured.

10. The following table exhibits the number of accidents under the different classes and the number of persons killed and injured thereby:—

	Number of Accidents	Number of passengers and others		Number of servants		TOTAL.	
		Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Collisions between passenger trains and goods, or mineral trains, engines and vehicles standing foul of the line	12	..	..	3	..	3	3
Collisions between goods trains or parts of goods trains	26	..	..	3	..	3	3
Collisions between light engines	4	..	..	..	..	..	..
Passenger trains or parts of passenger trains leaving the rails	4	..	..	..	..	..	..
Goods trains or parts of goods trains, engines, &c., leaving the rails	62	3	3	3	3	3	3
Trains or engines travelling in the wrong direction through points	12	..	..	..	..	..	..
Trains running into stations or sidings at too high a speed	7	..	..	..	..	..	..
Trains running over cattle on the line	245	1	5	1	5	1	5
Trains running over obstructions on the line	18	..	..	..	..	..	..
Trains running through gates at level crossings	12	..	..	..	..	..	..
The bursting of boilers or tubes, &c., of engines	26	..	..	2	4	2	4
The failure of machinery, springs, &c., of engines	4	..	..	..	..	..	..
The failure of tyres	3	..	..	..	..	..	..
The failure of wheels	7	..	..	..	..	..	..
The failure of axles	7	..	..	..	..	..	..
The failure of couplings	2	..	..	..	..	..	..
Broken rails	2	..	..	..	..	..	..
The flooding of portions of permanent way	21	1	..	1	..	1	2
Slips in cuttings or embankments	19	..	..	..	..	..	..
Fire in trains	18	..	..	..	..	..	..
Fire at stations or involving injury to bridges or viaducts	98	1	2	3	..	1	4
Other accidents	..	..	..	..	..	..	..
Total	617	4	10	24	10	10	26

11. The number of collisions between "goods trains or parts of goods trains" increased from 13 to 26, of which 8 occurred on the East Indian Railway and 8 on the Great Indian Peninsula Railway.

12. The number of cases in which "goods trains or parts of goods trains, engines, &c., left the metals" was the largest on the Sind, Punjab and Delhi Railway, being 17 out of a total of 62; on the Great Indian Peninsula Railway there were 13; and on the Madras Railway 10.

13. The total number of cattle accidents, as compared with the corresponding period of the previous year, shows an increase of 60, the largest number of cases occurred on the Rajputana Railway, being 19 against 18. On the East Indian Railway there were 22 cases against 21, on the South Indian Railway 43 against 55, on the Northern Bengal Railway 13 against 7, and on the Indus Valley and Kandahar Railway 45 against 36.

14. The number of cases of "failure of machinery, springs, &c., of engines" shows a satisfactory decrease of 47 or 53 per cent. as compared with the figures for the corresponding quarter of the previous year. On the Sind, Punjab and Delhi Railway, there were 7 cases against 17, and on the Indus Valley and Kandahar Railway 9 against 58.

15. There were 3 cases of failure of tyres, of which 1 was on the Bombay, Baroda and Central India Railway, 1 on the Wardha Coal Railway, and 1 on the Indus Valley and Kandahar Railway.

16. Axles failed in 7 instances, of which 2 occurred on the East Indian Railway, 2 on the Rangoon and Irrawaddy Valley Railway, 1 on Eastern Bengal Railway, 1 on Bombay, Baroda and Central India Railway, and 1 on Indus Valley and Kandahar Railway.

17. The number of cases of failure of couplings appears large, being 22 against 7. On the East Indian Railway there were 5 cases against 1, and on the Rajputana Railway 5 against 1.

18. The cases of fire in trains decreased from 23 to 18. On the Madras Railway there were 6 cases against 5, and on the Indus Valley and Kandahar Railway 5 against 11.

19. The casualties to passengers from causes other than accidents to trains, &c., were—

	Killed.	Injured.
From falling between carriages and platforms	2	..
Falling on to the platform, ballast, &c., when getting into or out of trains	..	2
By closing of carriage doors	..	2
Falling out of carriages during the travelling of trains	4	11
TOTAL	6	15

and the accidents to servants in the employ of railways or of contractors whilst performing duties connected directly with the transit of passengers and goods, from causes other than accidents to trains, &c., were—

	Killed.	Injured.
During shunting operations	4	11
Falling off engines, vans, wagons, &c.	5	11
Coming in contact with overbridges, &c., during the travelling of trains	...	2
Getting on or off trains, engines, &c.	6	12
Whilst loading, unloading or shunting	3	15
„ breaking, spragging or choking wheels	...	2
„ working on the permanent-way or in sidings	3	2
„ walking, crossing or standing on the line	15	13
„ passing between vehicles	1	...
„ attending to the machinery of engines, cleaning them, &c.	1	5
„ attending to gates at level crossings	3	1
Falling or being caught between vehicles and platforms	1	2
„ off ladders, scaffolds, platforms, &c.	...	2
By falling of lamps, wagon doors, timber weights, &c.	1	4
Whilst coupling or uncoupling wagons	2	7
Miscellaneous	2	27
TOTAL.	47	116

20. Of other persons killed and injured by running trains, &c., 2 were killed and 1 injured whilst passing over the line at level crossings; 25 killed and 10 injured whilst trespassing on the line; 8 committed suicide; 3 were injured in attempting to commit suicide; and 3 killed and 8 injured from miscellaneous causes.

21. The following table shows the total numbers of persons killed and injured from causes connected with the working of trains as compared with those in the previous corresponding quarter:—

	THIRD QUARTER, 1880.		THIRD QUARTER, 1881.	
	Killed.	Injured.	Killed.	Injured.
<i>Passengers.</i>				
From causes beyond their own control	...	5	...	2
„ misconduct or want of caution	1	14	6	15
<i>Servants.</i>				
From causes beyond their own control	6	14	9	27
„ misconduct or want of caution	31	89	48	113
<i>Others.</i>				
Whilst passing at level crossings	2	...	2	1
Trespassers, including suicides	36	5	33	13
Other persons	...	1	3	8
TOTAL.	76	128	101	179

22. In addition to the above, 6 persons are reported to have been killed, and 23 injured in yards, workshops, &c., and 78 passengers to have met death in carriages and at stations from causes unconnected with the working of trains.

RESOLUTION.—The attention of the Government and Officers concerned should be invited to the large number of “collisions between goods trains or parts of goods trains” on the East Indian and Great Indian Peninsula Railways, the large increase in the number of cattle accidents on the Rajputana and Indus Valley and Kandahar Railways, and to the comparatively large number of failure of couplings on Rajputana Railway.

Madras, Bombay, Bengal, North-Western Provinces and Oudh.
Central Provinces, British Burma, and Hyderabad.
Director General of Railways.
Consulting Engineers to the Government of India for Guaranteed Railways.

ORDER.—Ordered, that this Resolution be forwarded to the Governments, Administrations and Officers noted in the margin for information and guidance, together with copies of the returns compiled.

Ordered also, that these papers be forwarded to the Government and Administrations marginally noted for information, and that copies be forwarded to the Secretary of State for the information of Her Majesty's Government.

Ordered further, that this Resolution, with the abstract returns, be published in the Supplement to the *Gazette of India*.

W. S. TREVOR, Colonel, R.E.,
Deputy Secretary.

TABLE No. I.
GENERAL TOTAL.

NUMBER OF PERSONS REPORTED DURING THE THIRD QUARTER OF 1881 AS KILLED OR INJURED ON THE SEVERAL RAILWAYS OPEN FOR TRAFFIC IN INDIA, DISTINGUISHING BETWEEN PASSENGERS, RAILWAY SERVANTS, AND OTHER PERSONS; AND DISTINGUISHING ALSO, IN THE CASE OF THE TWO FORMER CLASSES, BETWEEN ACCIDENTS HAPPENING FROM CAUSES BEYOND THEIR OWN CONTROL, AND ACCIDENTS HAPPENING OTHERWISE.

Mean Mileage open.	RAILWAYS.	PASSENGERS.						RAILWAY SERVANTS OR SERVANTS OF CONTRACTORS.						OTHER PERSONS.						TOTAL ALL CLASSES.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
		From Causes beyond their own Control.			From their own Misconduct or want of Caution.			Total.		From Causes beyond their own Control.			From their own Misconduct or want of Caution.			Total.		Whist passing over Railways at Level-Crossings.			Trespassers and Suicides.			Miscellaneous not included in preceding Columns.			Total.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Thursday, the 23rd February, 1882.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.G., G.M.S.I.,
G.M.I.E., *presiding*.
The Hon'ble Whitley Stokes, C.S.I., C.I.E.
The Hon'ble Rivers Thompson, C.S.I., C.I.E.
The Hon'ble J. Gibbs, C.S.I., C.I.E.
Major the Hon'ble E. Baring, R.A., C.S.I., C.I.E.
Major-General the Hon'ble T. F. Wilson, C.B., C.I.E.
The Hon'ble Mahārāja Jotindra Mohan Tagore, C.S.I.
The Hon'ble L. Forbes.
The Hon'ble C. H. T. Crosthwaite.
The Hon'ble A. B. Inglis.
The Hon'ble Rājā Siva Prasad, C.S.I.
The Hon'ble W. C. Plowden.
The Hon'ble W. W. Hunter, C.I.E., LL.D.
The Hon'ble Sayyad Ahmad Khān Bahādur, C.S.I.
The Hon'ble Durgā Charan Lāhā.
The Hon'ble H. J. Reynolds.

INDIAN COMPANIES BILL.

The Hon'ble Mr. STOKES moved that the Report of the Select Committee on the Bill for the incorporation, regulation and winding-up of Trading Companies and other Associations be taken into consideration. He said that the Select Committee had revised the Bill very carefully with the assistance of the two mercantile members, and they had made only four substantial alterations.

The first of these was that, in section 74, they had required the auditors to ascertain and certify that the balance-sheet was not only correct but conformable to law; and they had expressly declared that no balance-sheet should be filed with the Registrar unless and until its correctness and conformity had been so ascertained and certified.

Secondly, at the suggestion of Mr. Justice Plowden, the Committee had declared (section 125) that no claim founded on the liability of a contributory should be cognizable by a Court of Small Causes except in the Presidency-towns. This had been held to be the effect of section 6 of Act XI of 1865; but it would be well to have the law on the point expressly stated.

Thirdly, the Committee had declared that no Company under the proposed Act should have power to buy its own shares. This went a little further than the decision on *Zulueta's claim* (5 Ch. 411), where Lord Justice Giffard had held that, unless there was in plain terms, in the memorandum or articles of association, a direct authority to purchase a Company's own shares, it was clear in point of law that the Company could not do so. This decision was now the English rule on the subject. The American rule was, according to Mr. Bryce, to the contrary, and must, one would think, favour the commission of frauds on the investing public.

Lastly, in Table A, clause 57, the Committee had declared that the office of a director should be vacated if any partner of his, or any firm of which he was a member, held any other office or place of profit under the Company. The object of this, of course, was to prevent any one firm from getting the management of a Company too much into its own hands—to prevent, for example, one partner from being a director, another the attorney, and the firm secretaries and treasurers, of one and the same Company. They had also provided that a director should be disqualified if he were punished under any of the penal

clauses contained in the proposed Act. Of course, under section 76, any Company could, by passing a special resolution, alter these regulations; but MR. STOKES hoped and believed that this would not often be done.

The Motion was put and agreed to.

The Hon'ble MR. STOKES also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

POWERS-OF-ATTORNEY BILL.

The Hon'ble MR. STOKES also moved that the Report of the Select Committee on the Bill to amend the law relating to Powers-of Attorney be taken into consideration. He said that in this little Bill the Select Committee had only made one or two unimportant changes. They had added a section equivalent to 44 & 45 Vic., c. 40, declaring that married women, whether minors or not, should have power to appoint attorneys on their behalf, for the purpose of executing a deed or doing any other act which they might themselves execute or do. They had repealed Act XXVIII of 1866, section 39, which would be rendered useless by the enactment of section 3 of the Bill. And they had postponed the commencement of the Act to the 1st May, 1882.

The Motion was put and agreed to.

The Hon'ble MR. STOKES then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

BRITISH BURMA STEAM-BOILERS AND PRIME-MOVERS BILL.

The Hon'ble MR. STOKES also introduced the Bill to provide for the inspection of Steam-boilers and Prime-movers attached thereto in British Burma, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Gibbs, Crosthwaite and Inglis and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. STOKES then moved that the Bill and Statement of Objects and Reasons be published in the *British Burma Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

BRITISH BURMA PILOTS BILL.

The Hon'ble MR. STOKES asked for leave to postpone the introduction of the Bill to provide for the grant of licenses to, and for the holding of investigations into charges of incompetency or misconduct made against, Pilots in British Burma, and the Motion that it be referred to a Select Committee consisting of the Hon'ble MR. Gibbs, Major the Hon'ble E. Baring, the Hon'ble MR. Crosthwaite and the Mover.

Leave was granted.

The Hon'ble MR. STOKES also asked for leave to postpone the motion that the Bill and Statement of Objects and Reasons be published in the *British Burma Gazette* in English and in such other languages as the Local Government might think fit.

Leave was granted.

PRESIDENCY SMALL CAUSE COURTS BILL.

The Hon'ble MR. STOKES then moved that the Bill to consolidate and amend the law relating to the Courts of Small Causes established in the Presidency-towns be referred back to the Select Committee.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 2nd March, 1882.

CALCUTTA ;
The 23rd February, 1882.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India,
Legislative Department.

GOVERNMENT OF INDIA.
REVENUE AND AGRICULTURAL DEPARTMENT.

REPORTS ON THE STATE OF THE SEASON AND PROSPECTS OF THE CROPS
FOR THE WEEK ENDING THE 28th FEBRUARY 1892.

GENERAL REMARKS.—No rain fell during the week in any part of India except in Assam, Burma, and Lower Bengal. The spring crops are ripening fast in every province, and in Southern India they have either been or are being harvested.

In Madras prospects are reported to be good, though the outturn of the harvest in parts is below the average, and the standing crops have suffered from a deficient rainfall.

In Bombay the *rabi* harvest has been completed in some districts and is still going on in others. The cotton crop is also being picked. Prospects are generally good though Dharwar suffers from scarcity of water. The general rain throughout Bengal has much improved the *rabi* crops, though some damage has been done by hail.

There is no change in the North-Western Provinces and Oudh. The yield on unirrigated lands in the central tract will be light owing to failure of the winter rains, and slight damage has been sustained in parts from hail and frost.

In the Punjab, the Central Provinces and British Burma agricultural prospects and the public health are good.

In Assam the showery weather has much facilitated ploughing for the *ahu* crop, and the cold-weather crops are being reaped.

There appears no cause for anxiety in the Mysore State, though water is scarce and crops which are dependent on irrigation are unsatisfactory. Dry crops are fair and prices easy.

In Berar, Hyderabad, Central India and Rajputana prospects are good and the weather seasonable.

Rain is much wanted in Nepal.

Presidency or Province and District	Rainfall for week preceding.	State of agricultural prospects.
Madras—		
Bellary ..	...	Standing crops wet generally good; dry withering in parts; harvest wet and dry grains; sugarcane yield below average; fever and small-pox in parts.
Kurnool ..	..	Standing crops dry generally good; harvest dry grains, outturn below average; small-pox and cattle disease in parts.
Ganjam ..	1·3 one station.	Gingelly and cotton thriving; harvest sugarcane and cotton one taluk, outturn average.
Kistna ...	...	Standing crops good; harvest dry grains and chillies, outturn below average; ague, small-pox, cholera and cattle disease in parts.
Chingleput (Madras) ...	...	Standing crops under larger tanks and river-channels in good condition; those dependent chiefly on rain not doing well owing to insufficient supply; harvest paddy, outturn below average; agricultural operations progressing; cholera in parts.
Coimbatore ...	...	Standing crops wet generally good; dry in parts suffering from want of rain and from insects, harvest wet and dry grains, outturn about average; fever, small-pox and cholera in parts.
Tanjore ..	...	Standing crops good; harvest wet and dry grains, outturn about average; cholera in parts.
Madura ...	...	Standing crops wet suffering from blight and deficient water-supply in parts; harvest paddy four taluks; cholera in parts.
Malabar ...	...	Fever, small-pox and cholera in parts.
Travancore ...	...	Harvest paddy progressing; fever and measles continue. <i>General Remarks.</i> —No rain except in Ganjam; general prospects good.
Bombay—		
Kurrachee ...	...	Fever still continues; two cases small-pox in Dadu; wheat, red rice and <i>bajri</i> —in Kurrachee 22, 40 and 38, in Dadu 23 and 48, in Tatta 23, 44 and 44, in Sujawal 18, 48, 56 pounds per rupee respectively.
Ahmedabad ...	...	<i>Rabi</i> harvest progressing; health good; wheat 30 pounds, <i>bajri</i> 33 per rupee.
Baroda ...	...	<i>Rabi</i> crops in good condition; cotton-picking in progress; public health good; prices in Baroda city: <i>bajri</i> 31, common rice 24 pounds per rupee.
Surat ...	..	Crops healthy; fever in Pardi; <i>jowari</i> 39 and <i>ragli</i> 52 pounds per rupee.
Nasik ...	...	Reaping of <i>rabi</i> still continuing; cattle disease disappeared; <i>bajri</i> 47, wheat 31, <i>jowari</i> 67 pounds per rupee.
Colaba (Bombay) ...	No rain	Abnormal temperature cool on 22nd and 23rd, rose to 5° warm on 26th and fell to 1° cool on 28th; vapour in air in defect of normal, except on 28th; abnormal wind easterly on 25th and 26th; <i>nil</i> on all other days.
Poona ...	...	Harvesting of <i>rabi</i> crops progressing; average prices: <i>bajri</i> 49, <i>jowari</i> 62 pounds, in Poona <i>bajri</i> 41, <i>jowari</i> 52 pounds per rupee.

Presidency or Province and District.	Rainfall for week preceding.	State of agricultural prospects.
Bombay—contd.		
Ahmednagar	...	Harvesting of <i>rabi</i> nearly finished; <i>jowari</i> maximum 108 pounds in Jamkhed, minimum 66 in Koparguon; <i>bajri</i> 72 in Jamkhed and 54 in Koparguon.
Sholapur	...	<i>Rabi</i> harvest continues; <i>jowari</i> 77 pounds 4 tolas, <i>bajri</i> 60 pounds 16 tolas per rupee.
Dharwar	...	Wheat and gram being reaped; cotton-picking in progress; scarcity of drinking water in Navalgund, Gadag, Ilangal, Karajghi, Kalghatgi and Kod; public health generally good; cattle disease in two talukas; rice 24, <i>jowari</i> 61 pounds per rupee.
Kanara	...	Fever prevalent in mild form in some talukas; cattle-disease less; second crop plants on coast in ear; common rice in Karwar 17 seers in district average 17½ seers per rupee.
Rajkot	...	Weather cold; general health good; <i>bajri</i> 29, <i>jowari</i> 37 pounds per rupee.
		<i>General Remarks.</i> — <i>Rabi</i> harvest completed in some districts, in progress in others; scarcity of drinking water in parts of Dharwar continues; fever and cattle disease disappearing; prices generally steady.
Bengal—(Mar 1st)		
Chittagong	Nil	Weather seasonable; no rain in the town; a few showers in other parts of district; prospects and yield of crops fair; prices stationary; small-pox and cholera still continue; general health good.
Dacca	0.85	Prospects of winter crops generally good; cutting of sugarcane nearly completed, yield average; lands being prepared for sowing; public health generally good.
24-Pergunnahs (Alipore)	0.26	Harvesting of winter crops commenced, yield fair; lands being prepared for sowing; price of common rice stationary; public health generally good; cholera of a sporadic nature reported from Burackpore Sub-division.
Moorshedabad	1.45	Prospects of crops on the whole continue to be good; there was a heavy rainfall attended with much hail on 24th, the hail-storm has done some mischief to standing winter crops and mango blossoms; sporadic cases of cholera still exist.
Rajahmhye	0.02	Prospects of crops fair, fever prevalent; a few cases of cholera reported.
Burdwan	0.47	<i>Rabi</i> crops being harvested; cholera cases still reported.
Rungpore	0.39	Weather seasonable; prospects of crops favourable, public health good.
Bhagulpore	Nil	Prospects of crops good; cases of small-pox and cholera in the town.
Purneah	Nil	Wheat and other grains promise well; ploughing for <i>bhadai</i> crops going on; small-pox and cholera in many parts of district.
Patna	Nil	Prospects of crops continue good; public health good.
Darbhanga	Nil	High east wind; harvest of tobacco and mustard in progress; <i>rabi</i> promising, mango blossoming; prices falling slightly, small-pox has broken out in Madhuchani; health of head-quarters good.
Hazariabagh	0.23	Weather getting warm; hail on 24th has done considerable damage to mango and <i>mohua</i> ; other crops doing well; health generally good.
Cuttack	Nil	<i>Dalua</i> rice doing well in irrigated tracts; rain wanted; public health good.
		<i>General Remarks.</i> —Rain fell in many districts during the week; there were severe hail-storms in some places on 24th instant, which have much damaged mango blossoms and have also caused some injury to standing <i>rabi</i> crops; <i>rabi</i> prospects have generally much improved by the rain, but in some places the crops have already suffered from previous drought and will be below the average; ploughing for autumn crops progresses actively; sporadic cholera and small-pox continue to be reported in some districts.
N. W. Provinces and Oudh—		
Benares (Feb 18th)	No rain	<i>Rabi</i> crops have suffered to some extent for want of rain; no disease amongst men and cow-pox amongst cattle in Chandouli tahsil has disappeared; bazars well supplied with food grains at moderate prices.
Allahabad (March 1st)	No rain	Variation in prices slight; <i>rabi</i> harvest begun; no cattle disease; slight fever here and there; occasional cholera continues.
Gorakhpur (Feb 25th)	...	Weather fine; slight damage from hail storms; crop good; men and cattle well; prices stationary.
Jhansi (" ")	...	Harvesting has commenced; crops looking well, but the outturn will be scanty in places where no rain fell in October last; prices stationary; health good; no cattle disease.
Agra (" ")	No rain	Sarson and gram slightly damaged by insects; irrigation continues; crops ripening; health good; prices rising slightly.
Bareilly (" ")	No rain	Crops fair; prices almost stationary; people and cattle in good health.
Meerut (" ")	...	Weather clear; health good; crops good; prices stationary.
Kumaun (" ")	No rain	Sky cloudy; general health good; measles in some places; cattle disease continues; prices unchanged.

Presidency or Province and District.	Rainfall for week preceding.	State of agricultural prospects.
N.-W. Provinces and Oudh—contd.		
Lucknow (Feb. 28th)	...	Weather seasonable on the whole; <i>rabi</i> prospects fair; health good; prices slightly on the rise.
Pertabgarh (" ")	...	Prospects on the whole continue favourable, but in pargana Ateha the crops have suffered somewhat; public health good.
Sitapur (" ")	No rain	Unirrigated crops poor; health good; prices stationary.
Kyzabad (" ")	No rain	Peas and beans being cut; no cattle disease; public health good.
Cawnpore (" ")	No rain	Prospects of irrigated <i>rabi</i> continue good; slight damage to <i>arhar</i> and gram from frost in two parganas; health good; prices slightly risen.
Farrukhabad (" ")	No rain	Weather clear; wind easterly; health good.
Rai Bareilly (" ")	...	Health good; harvest beginning; prospects excellent; prices still rising.
		<i>General Remarks.</i> —No rain during the week, and crops have suffered from want of it in Benares, Pertabgarh, Sitapur and Jhansi, slight damage has occurred from hail in Gorakhpur, from frost in Cawnpore and Aligarh, and from insects in Agra; otherwise prospects are generally favourable, though prices are rising in Lucknow, Rai Bareilly, Cawnpore and Agra; a few cases of cholera and slight fever in Allahabad and some measles in Kumaun, but the general health continues good; cow-pock has disappeared in Benares and cattle disease in Jhansi, but the latter continues in Kumaun.
Punjab—(Feb. 28th)		
Delhi	No rain	Prospects good; small-pox in city; prices steady.
Hissar	...	Weather seasonable; crops excellent; prices stationary; health good.
Umballa	No rain	<i>Rabi</i> crops flourishing; health good.
Jullundur	No rain	Prices falling; health and crops good.
Amritsar	No rain	Health good; prices fluctuating.
Lahore	No rain	State of crops and health of district good; prices steady.
Ferozepore	No rain	Health good; prices steady.
Sialkot	No rain	Crops and health good.
Rawalpindi	No rain	Agricultural prospects and health good; prices falling.
Peshawar	No rain	Health and crops good; prices fluctuating.
Mooltan	No rain	State of crops favourable; health good; prices steady.
Dera Ismail Khan	No rain	Health good; prospects fair; prices steady.
		<i>General Remarks.</i> —Health and harvest prospects good; prices steady.
Central Provinces—		
Nagpur (March 1st)	...	Weather warm; <i>rabi</i> crops being reaped, outturn fair; health good, prices easy.
Jubbulpore	...	Days warm, nights cool; reaping of pulses continues; cholera abating; prices: wheat 23 seers per rupee.
Saugor (Feb. 27th)	...	Weather chilly, <i>rabi</i> harvest commenced in places; isolated cases of cholera, prices steady.
Seoni	...	Weather pleasant, reaping of <i>rabi</i> crops progressing, cholera and small-pox diminishing; cattle disease reported, prices stationary.
Hoshangabad (Feb. 28th)	...	Weather seasonable, <i>rabi</i> harvesting continues, small-pox reported; prices: wheat 20½ seers per rupee.
Raipur	...	Weather seasonable; <i>rabi</i> being harvested, cattle disease reported, health good; prices stationary.
Sanbalpur (Feb. 23rd)	19	Weather cloudy; prospects of crops and health good, prices: rice 56 seers per rupee.
Khandwa	...	Getting warm; <i>rabi</i> prospects good; preparation for <i>khari</i> sowings in progress; small-pox reported, health good, prices: wheat 18 seers per rupee.
		<i>General Remarks.</i> —Weather getting warmer, <i>rabi</i> crops being reaped, good outturn expected; cholera in northern districts abating; public health generally good, prices stationary.
British Burma—(Feb. 25th)		
Akyab	Nil	Total rainfall 40; five cases of small-pox in Akyab town; disease prevailing in Minya township; otherwise public health good; slight cattle disease in three townships.
Rangoon	34	Public health good.
Bassein	62	Public health good.
Prome	...	A few cases of chicken pox in Prome town, otherwise public health good.
Amherst (Moulmein)	...	Public health in Moulmein and district good, crops fair.
Toungoo	...	One death from cholera in one township, otherwise public health good, reaping completed.
		<i>General Remarks.</i> —A little small-pox in Akyab, some cholera in Henzada and Tavoy, otherwise public health good, slight cattle disease in a few places.
Assam—		
Gauhati	29	<i>Assu</i> crop in progress; public health fair.
Sylhet	12	Mustard and linseed reaping finished; sugarcane reaping still going on and so is the cultivation of <i>amun dkan</i> , transplantation of <i>bara</i> also going on; cholera still prevalent.

Presidency or Province and District.	Rainfall for week preceding.	State of agricultural prospects.
Assam—contd.		
Cachar ...	13	Weather warm; no cholera reported; common rice 24½ seers per rupee.
Dibrugarh ...	92	Weather showery; ploughing for <i>ahu</i> ; public health good; cattle disease still reported.
Mysore and Coorg—		
Bangalore ...	...	Standing dry crops fair condition; wet crops, except under large tanks, are withering; sugarcane and horse-grain harvested; prospects fairly good; public health good; fever and small-pox prevalent in two taluks; rise of rice 12 seers per rupee, <i>ragi</i> 24½.
Mysore ..	...	Standing crops in good condition, prospects fair; price of rice slightly risen, of other articles of food stationary; dry crops throughout the State in good condition except in Shimoga; wet crops unsatisfactory; prospects tolerably fair; water becoming scarce; prices easy; small-pox reported from five districts.
Mercara ...	No rain	Threshing of rice continues; slight fall in price of rice; supplies imported from South Canara; further rise in the price of native coffee during the past week; no demand for cardamoms; health generally good.
Berar & Hyderabad—		
Amraoti ...	...	Reaping <i>rabi</i> crops progressing; wheat 18, <i>jowari</i> 36 seers per rupee.
Akola ...	...	<i>Rabi</i> harvesting continues; prospects good.
Hyderabad ...	...	<i>Rabi</i> reaping continues, <i>tabi</i> crops prospering; scarcity of water felt in some talukas; cattle disease prevalent in one taluk; prices: rice 10½, wheat 17½, white <i>jowari</i> 24, yellow <i>jowari</i> 30, and <i>tur</i> 32 seers per hali sicca rupee.
Central India States— (March 1st)		
Indore ...	...	Weather variable and much cooler than it has been; health good, grain and opium crops are being gathered; the <i>rabi</i> crop on un-irrigated land has suffered from want of rain, but is not much below the average.
Morar (Gwalior) ...	No rain	Weather changeable; some fever.
Sutna ..	...	Weather clear and cool; health and prospects good; some cholera still in Nagode.
Neemuch ..	No rain	High winds; small-pox reported in the district, but none in cantonment.
Goonna ..	} No rain	Health and prospects good; weather seasonable.
Bhopal ..		
Agar ..		
Nowgong ..		
Maunpur ..	...	<i>Rabi</i> crops progressing favourably; weather cool; cholera reported in Panna.
	...	Weather clear and cold; fever and cough prevalent; prices stationary.
Rajputana—		
Abu (March 1st) ...	...	Seasonable winds; clouds gathering.
Sirohi (Feb. 26th) ...	...	Tanks fair; wells and health good; prospects very good; seasonable.
Marwar („ 24th) ...	...	Tanks and wells almost full; health and crops good; coldest week during this winter; sharp winds damaged crops to some extent; clouds about; prices rising.
Meywar („ 25th) ..	..	Tanks and wells good; small-pox decreasing, health otherwise good; prospects very good; seasonable.
Harowti („ „)	In Deloli '05, Kotal '05, Tonk '09	Crops ripening; tanks and wells low; clear; health good; prospects fair.
Jhallawar („ 22nd) ...	...	Seasonable; health and prospects good.
Ajmere („ 28th) ...	...	Seasonable; health and prospects good.
Ulwar ( „ „ ) ..	..	High winds slightly injured crops; wells filling; health good.
Nepal—		
Nepal ...	Nil	Rain much wanted.

E. C. BUCK,

Offg Secy. to the Govt. of India.

month from the 15th March 1882, in recognition of his services in Afghanistan.

POLITICAL.

The 3rd March 1882.

No. 67 G. P.—His Excellency the Viceroy and Governor General in Council is pleased to recognize the appointment of Monsieur F. N. Champoiseau as Consul-General for France at Calcutta.

No. 70 G. P.—Subject to the confirmation of Her Majesty's Government, His Excellency the Viceroy and Governor General in Council is pleased to recognize the appointment of Mr. S. I. Pressanges as Acting Consular Agent for Italy at Akyab.

C. GRANT,

Secy. to the Govt. of India.

DEPARTMENT OF FINANCE AND COMMERCE.

NOTIFICATIONS.

Fort William, the 2nd March 1882.

No. 1280.

RESOLUTION—By the Government of India, Department of Finance and Commerce.

Read again the under-mentioned papers regarding the substitution of goods of *bona fide* Indian manufacture for European stores:—

Financial Resolution No. 2777, dated 1st September 1881.

„ „ 806, dated 10th February 1882.

Read also—

Letter No. 2551 P., dated 18th February 1882, from Messrs. Burn & Co., Managing Agents of the Indian Portland Cement Company, Limited.

RESOLUTION.—In the Resolution read above, the Governor General in Council directed that whenever Portland cement was required for the public service in India, it should be obtained of Indian manufacture. The Managing Agents of the Indian Portland Cement Company, Limited, now say that the Company has determined to erect, at a cost of Rs. 4,50,000, new works to enable them to meet the increasing Government demand. They represent that they “would like to have their hands strengthened by contracts from Local Governments as authorised by the Supreme Government,” and they request that the attention of the various Departments and local authorities interested may be called to the establishment of the additional works at Raniganj, “with the view of entering into contracts for a supply of the cement for a period of five years.” His Excellency the Governor General in Council has no objection to making known the information communicated by Messrs. Burn & Co., in order that Local Governments and Administrations or Public Departments may contract for a term of years not exceeding five if they find that they can rely on obtaining cement of good quality and at prices not higher than the market prices ruling at the time of delivery for imported cement of equal quality.

ORDERED, that the foregoing Resolution be communicated to all Local Governments and Administrations and to the Public Works Department for consideration, and to Messrs. Burn & Co. for information.

Also, that it be published in the *Gazette of India* for general information.

The 3rd March 1882.

No. 1288.—In exercise of the powers conferred by Sections nine, fifteen, seventeen, thirty-two, fifty-one, and fifty-six of the Indian Stamp Act, 1879, the Governor General in Council is pleased to make the following Rules:—

CHAPTER I.—*Preliminary.*

1. These Rules shall come into force throughout British India on the 1st April 1882 in supersession of the Rules promulgated by Notifications No. 875, dated 26th February, and No. 966, dated 4th June 1881.

2. All words and expressions used in these Rules and defined in the Indian Stamp Act, 1879, shall be deemed to have the meaning attached to them respectively by the said Act.

3. There shall be two kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, 1879, namely—

(a) Impressed Stamps—including—

Impressed Sheets,—that is to say, sheets of paper bearing the impression of Stamps of different values engraved thereon, and sold to the public for use by them in accordance with these Rules.

Impressed Labels,—to be affixed and impressed by Government Officers as directed in Chapter III of these Rules.

(b) Adhesive Stamps sold to the public for use by them in accordance with these Rules.

CHAPTER II.—Of Impressed Sheets.

4. All instruments chargeable with duty, except Hundis, may be written on Impressed Sheets, and, except as provided by Section ten of the said Act and by these Rules, shall be so written.

5 (a). When any instrument is to be written on an Impressed Sheet, if the amount of duty with which such instrument is chargeable does not exceed one hundred rupees, a single sheet shall be used, unless—

where the application for the required stamp is made at a treasury, the officer in charge of such treasury, or, where such application is made to a stamp-vendor, the vendor certifies that he is unable to furnish a single stamp of the required value.

(b). When the amount of duty chargeable in respect of any instrument exceeds one hundred rupees, or a treasury officer or stamp-vendor has certified under clause (a) that he is unable to furnish a single stamp of the required value, the number of sheets used for indicating the payment of duty shall not exceed the number which the treasury officer or the stamp-vendor certifies in either case to be the smallest number which he can furnish so as to make up the required amount.

(c). No certificate shall be made under clause (a) or clause (b) by a stamp-vendor in any case in which the stamp duty required exceeds the highest value of the stamps which such vendor is authorised to sell.

(d). When, under this Rule, two or more Impressed Sheets are used to make up the amount of duty chargeable in respect of any instrument, a portion of such instrument shall be written on each sheet so used.

(e). When a single sheet used under this Rule is found insufficient to admit of the entire instrument being written on the side of the paper which bears the stamp, so much plain paper may be subjoined thereto as may be necessary for the complete writing of such instrument: provided that in every such case the side of the sheet which bears the stamp must be covered by a substantial part of the instrument before any part of the latter can be written on the plain paper joined to such sheet. Provided further, that the part of the instrument written on the plain paper must be attested by the signatures or marks of all the persons executing the document and the witnesses to the same.

6 (a). Hundis other than hundis which can be stamped with an adhesive stamp under Section ten of the said Act shall be written as follows:—

(1) Hundis payable otherwise than on demand, but not more than one year after date or sight, and for amounts not exceeding Rs. 30,000 in individual value, on impressed sheets bearing the word *Hundi*;

- (2) Hundis exceeding Rs. 30,000 in individual value, and Hundis payable at more than one year after date or sight, on paper supplied for sale by the Government, and to which labels have been affixed by one of the officers mentioned in Rule nine, clause (b), or by the Superintendent of Stamps, Calcutta, and impressed by him in manner provided by Rule ten.

(b). Every sheet of such stamped paper shall be of a size not less than $8\frac{1}{2} \times 5\frac{1}{2}$ inches, and no plain paper shall be joined to it.

(c). The provisions in Rule five as to use of two or more sheets of stamped paper when a single stamp of the required value is not procurable apply also to Hundi stamps used under this Rule.

7. The duty payable on any instrument chargeable with a duty of one anna may be denoted by a coloured impression marked on a skeleton form of such instrument by the Superintendent of Stamps at Calcutta, Bombay, Madras, or Rangoon.

CHAPTER III.—*Of Impressed Labels.*

8. Impressed labels may be used for the following instruments and counterparts thereof, namely,—

- (1) Administration-bonds:
- (2) Affidavits:
- (3) Appointments made in execution of a power:
- (4) Articles of Association of a Company:
- (5) Articles of clerkship;
- (6) Bills of lading:
- (7) Charter-parties:
- (8) Declarations of trust:
- (9) Instruments evidencing an agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property:
- (10) Leases printed or lithographed in an Oriental language, when the written matter filled in does not exceed one-fourth of the printed matter:
- (11) Memoranda of Association of Companies:
- (12) Notes of Protest:
- (13) Petitions for leave to file a specification of an invention, &c.:
- (14) Policies of insurance:
- (15) Revocations of trust:
- (16) Warrants for Goods:

and for the following—when written in any European language, provided that any instrument written in any European language other than English shall have attached to it a translation in the English language—

- (17) Agreements or memoranda of Agreements, which in the opinion of the officer empowered to affix the label cannot conveniently be written on Impressed Sheets:
- (18) Instruments engrossed on parchment and written in the English style, which in the opinion of such officer cannot conveniently be written on Impressed Sheets:
- (19) Awards:
- (20) Bills of Exchange payable otherwise than on demand and drawn in British India:
- (21) Bonds:

- (22) Certificates of sale :
- (23) Composition-deeds :
- (24) Conveyances :
- (25) Instruments imposing a further charge on mortgaged property :
- (26) Instruments of apprenticeship :
- (27) Instruments of co-partnership :
- (28) Instruments of dissolution of partnership :
- (29) Instruments of exchange :
- (30) Instruments of gift :
- (31) Instruments of partition :
- (32) Leases :
- (33) Letters of license :
- (34) Mortgage-deeds :
- (35) Powers of Attorney :
- (36) Reconveyances of mortgaged property :
- (37) Releases :
- (38) Settlements :
- (39) Transfers of the description mentioned in Article No. 60, clauses (b), (c), and (d) of the First Schedule of the said Act.

9. The following officers are empowered to affix these labels to the instruments mentioned in Rule eight, namely,—

- (a) the Collectors of Calcutta and Karáchi;
- (b) the Superintendents of Stamps at Madras, Bombay, Lahore, Rangoon, Maulmain, and Akyab;
- (c) the Commissioner of Stamps, North-Western Provinces and Oudh;
- (d) the Superintendent of Stamps (Political Resident), Aden.

10 (a). Every such officer shall, upon any instrument mentioned in Rule eight being brought to him before it is executed, and application being made to him for that purpose, affix thereto a label or labels of such value as the applicant may desire and pay for, and impress such label or labels by means of a stamping-machine, and also stamp or write on the face of the label or labels the date of impressing the label or labels before returning the instrument to the applicant. In the case of instruments written on parchment, the labels must be further secured by metallic eyelets.

(b). When the stamp duty amounts to five rupees or upwards, such officer shall further write on the face of the label or labels his initials, and, when the stamp duty amounts to rupees twenty or upwards, shall also attach his usual signature to the instrument immediately under the labels.

11 (a). The payment of duty on instruments (other than Bills of Exchange, Cheques, and Promissory Notes) executed out of British India and requiring to be stamped after their receipt in British India, shall be indicated only by impressed labels.

(b). When any such instrument is taken to the Collector under Section seventeen of the said Act, the Collector, unless he be Collector of Calcutta or Karáchi, shall send the instrument to one of the officers mentioned in Rule nine, remitting the amount of duty paid in respect of such instrument; and such officer shall stamp the instrument in the manner prescribed by Rules 10 (a) and 10 (b) and return the same to the Collector for delivery to the person by whom it was produced.

CHAPTER IV.—*Adhesive Stamps.*

12. Bills of Exchange, payable otherwise than on demand and drawn in sets, when the amount of stamp duty does not exceed one anna for each part of the set, may be stamped with adhesive stamps.

13. Except as otherwise provided in these Rules, the adhesive stamp used to denote the duty of one anna shall bear the words "one anna."

14. The following instruments when stamped with adhesive stamps shall be stamped as follows:—

(a) Bills of Exchange, Cheques, and Promissory Notes drawn or made out of British India, with adhesive stamps bearing the words "Foreign Bill."

(b) Transfers of shares of Public Companies and Associations, with adhesive stamps bearing the words "Share Transfer."

(c) An entry as an Advocate, Vakil, or Attorney on the roll of any High Court, with an adhesive stamp bearing the word "Advocate," "Vakil," or "Attorney."

(Such stamp shall be affixed under the superintendence and responsibility of a gazetted officer of the High Court, who shall obtain the stamp from the Superintendent of Stamps and account to him for it. The gazetted officer who affixes the stamp shall write on the face of it his usual signature and the date of signature before parting with the instrument.)

(d) Notarial Acts, with adhesive Foreign Bill stamps bearing the word "Notarial" printed over them.

CHAPTER V.—*Miscellaneous.*

15. When it is necessary under Section fifteen of the said Act to denote upon one instrument the payment of duty in respect of another, such payment shall be denoted by an endorsement under the hand of the Collector on the former instrument.

16. Every payment made under Section thirty of the said Act shall be made in cash.

17. The Collector may require every person claiming a refund or renewal under Chapter VI of the said Act, or his duly authorised agent, to make an oral deposition on oath or affirmation, or to put in an affidavit, setting forth the circumstances under which the claim has arisen. The Collector may also, if he thinks fit, call for the evidence of witnesses in support of the statement set forth in the deposition or affidavit of the claimant or his Agent.

18. Any Magistrate convicting or trying an offender under Chapter VIII of the Stamp Act may grant to any person, who may have contributed to the conviction, a reward within a limit to be fixed by the local Government.

No. 1302.

RESOLUTION—By the Government of India, Department of Finance and Commerce.

Read—

Financial Statement for 1881-82, paragraph 29.

Memorandum from this Department, to the Secretary to the Government of India, Military Department, No. 24, dated 18th January 1881, forwarding the Appropriation Audit Statement for the year 1880-81, submitted by the Accountant General, Military Department.

Report by the Comptroller General on the Accounts of the Government of India for 1880-81, dated 22nd February 1882.

RESOLUTION.—In the Financial Statement for 1881-82 it was announced that the Comptroller General would, in future, submit annually to the Govern-

ment of India a report in which the final accounts of the year preceding would be compared with the Budget Estimate of that year, as also with the accounts of previous years, and explanations of increases and decreases apparent therefrom would be afforded.

2. The first report due under this arrangement, which relates to the final accounts or "Actuals" of 1880-81, has now been received, and the Governor General in Council has much pleasure in recognising the thoroughness and ability with which Mr. Westland has dealt with the subject, and carried out the intentions of the Government of India.

3. These accounts, very briefly summarised, show the following results :—

	£
Revenue	72,560,000
Expenditure	76,604,000
Deficit	<u>4,141,000</u>

Excluding revenue and expenditure on account of the war, the deficit would be turned into a surplus of £6,320,000. The estimated deficit was £6,219,000. The accounts, therefore, show a result better than the Regular Estimate by £2,175,000.

4. The greater part of this difference, however, does not in reality represent any improvement of the revenue or diminution of the expenditure during 1880-81, the main reasons of this are as follows :—

- (1) According to the arrangement made last year, the English war contribution was redistributed in the autumn. The result was that £695,000 was transferred from 1881-82 to 1880-81, thus increasing the English war credit in the latter year to £2,695,000.
- (2) Under instructions from the Secretary of State the capital outlay on the Punjab Northern State Railway is to appear under the head "*38, Productive Public Works.*" The result, so far as the accounts of 1880-81 are concerned, is to increase the surplus, nominally, by £601,000.
- (3) Consequent on the Nizamut Stipend Fund having been wound up, there has been an exceptional credit of £291,000 during the year. The details of the transaction are to be found at page 9 of the Comptroller General's report, under the head of "*Miscellaneous.*"
- (4) The collection of the land revenue was not retarded by the census operations to so great an extent as had been anticipated, and £157,000 were recovered in the year which, it had been thought, would stand over till 1881-82.

5. The above items account for £1,747,000 out of the difference of £2,175,000, shown in paragraph 3. The other principal items are as shown in the margin. This improvement, in contradistinction to the above, is almost entirely real, and not nominal.

Excise	60,000
Salt	63,000
State Railways (net)	60,000
Guaranteed Railways (net) ..	218,000
	<u>401,000</u>

6. The report will be transmitted to the Secretary of State for India with the usual detailed review, and an expression of the high opinion which the Government of India entertain of the efficiency and services of Mr. Westland in the post of Comptroller General.

ORDERED, that the Comptroller General's Report on the Accounts of 1880-81, together with this Resolution, be forwarded to the Military Department and to the Comptroller General and Accountants General, and that it be published in the *Gazette of India*.



The Gazette of India

EXTRAORDINARY.

Published by Authority.

CALCUTTA, MONDAY, MARCH 6, 1882.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March, 1882, and is hereby promulgated for general information :—

Act No. VIII of 1882.

An Act to amend the Indian Penal Code.

For the purpose of amending the Indian Penal Code; It is hereby enacted as follows :—

1. In the second clause of section 40 of the said Code, before the figure "109," the figures "64, 65, 66, 71," shall be inserted.

Amendment of section 40, clause 2, of Indian Penal Code.

2. In section 64 of the said Code, for the first twelve words, the following shall be substituted, namely :—

Amendment of section 64 of same Code.

"In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

"and in every case of an offence punishable with fine only, in which the offender is sentenced to a fine."

3. In section 67, after the words "fine only," the words "the imprisonment which the Court imposes in default of payment of the fine shall be simple, and" shall be inserted.

Amendment of section 67 of same Code.

Addition to section 71 of same Code.

4. To section 71 of the said Code, the following clause shall be added :—

"Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

"where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

"the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences."

5. In section 73 of the said Code, for the words "be less than a" the words "shall not exceed one" shall be substituted.

Amendment of section 73 of same Code.

New Exception to section 214 of same Code.

6. In section 214 of the said Code, for the Exception, the following shall be substituted, namely :—

"*Exception.*—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded."

7. In section 309 of the said Code, for the last seven words the words "or with fine or with both" shall be substituted.

Amendment of section 309 of same Code.

8. In section 335 of the said Code, before the word "causes" the word "voluntarily" shall be inserted.

Amendment of section 335 of same Code.

9. In section 410 of the said Code, after the words "designated as 'stolen property'" the following words shall be inserted, namely :—"whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without British India"; and the words "offence of" shall be omitted.

Amendment of section 410 of same Code.

10. In section 435 of the said Code, after the words "or upwards" the following words shall be inserted, namely :—

Addition to section 435 of same Code.

"or (where the property is agricultural produce) ten rupees or upwards."

11. This Act extends to the whole of British India; and shall come into force on the first day of January, 1883.

Local extent.
Commencement.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March, 1882, and is hereby promulgated for general information :—

ACT NO. IX OF 1882.

An Act to amend the Prisoners' Act, 1871.

WHEREAS it is expedient to amend Act No. V of 1871 (*to consolidate the laws relating to Prisoners confined by order of a Court*); It is hereby enacted as follows :—

1. This Act may be called "The Prisoners' Act Amendment Act, 1882" :
 Short title. it extends to the whole of
 Local extent. British India ;
 Commencement. and it shall come into force
 on the first day of January,
 1883.

Section substituted
for section 33, Act V of
1871.

2. For section thirty-three of the said Act the following shall be substituted (namely) :—

" 33. The Governor General in Council may, from time to time, appoint places within British India to which persons sentenced to transportation shall be sent : and the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence."

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th March, 1882, and is hereby promulgated for general information.—

Act No. X 1882.

THE CODE OF CRIMINAL PROCEDURE, 1882.

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An Act to consolidate and amend the law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:—

PART I. PRELIMINARY.

CHAPTER I.

1. This Act may be called "The Code of Criminal Procedure, 1882": and shall come into force on the first day of January, 1883;

It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law now in force, or shall apply to—

(a) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;

(b) any officer duly authorized to try petty offences in military bazars at cantonments and stations occupied by the troops of the Presidencies of Fort St. George and Bombay respectively;

(c) heads of villages in the Presidency of Fort Saint George; or

(d) village Police-officers in the Presidency of Bombay;

(e) and nothing in sections 174, 175 and 176 shall apply to the police in the town of Madras.

2. On and from the first day of January, 1883, the enactments mentioned in the first schedule shall be repealed to the extent specified in the third column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the first day of January, 1883, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

3. In every enactment passed before this Code comes into force, in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act No. XXV of 1861, or Act No. X of 1872, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate", "Subordinate Magistrate, first class", and "Subordinate Magistrate, second class", shall respectively be deemed to mean "Magistrate of the first class", "Magistrate of the second class", and "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate", the expression "Magistrate of the district" shall be deemed to mean "District Magistrate", and the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate."

4. In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

(a) "Complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence; but does not include the report of a Police-officer:

(b) "Investigation" includes all the proceedings under this Code for the collection of evidence conducted by the police or by any person (other than a Magistrate or Police-officer) who is authorized by a Magistrate in this behalf:

(c) "Inquiry" includes every inquiry conducted under this Code by a Magistrate or Court:

(d) "Judicial proceeding" means any proceeding in the course of which evidence is or may be legally taken:

(e) "Writing" and "written" include "printing", "lithography", "photography", "engraving", and every other mode in which words or figures can be expressed on paper or on any substance:

(f) "Sub-division" means a sub-division made under this Code of a District:

(g) "Province" means the territories for the time being under the administration of any Local Government:

(h) "Presidency-town" means the local limits for the time being of the ordinary original civil juris-

diction of the High Court of Judicature at Fort William, Madras or Bombay :

(i) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Panjáb and the Recorder of Rangoon :

In other cases "High Court" means the highest Court of criminal appeal or revision for any local area ;

or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf :

(j) "Chief Justice" includes also the senior Judge of a Chief Court :

(k) "Advocate General" includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf :

(l) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown :

(m) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor ; and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction :

(n) "Pleader" used with reference to any proceeding in any Court, means a pleader authorized under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorized, and (2) any mukhtár or other person appointed with the permission of the Court to act in such proceeding :

(o) "Police-station" means any post declared, generally or specially, by the Local Government to be a Police-station for the purposes of this Code, and includes any local area specified by the Local Government in this behalf ; and "Officer in charge of a Police-station" includes, when the officer in charge of the Police-station is absent therefrom or unable from illness to perform his duties, the Police-officer present at the Police-station who is next in rank to such officer and is above the rank of constable, or, when the Local Government so directs, any other Police-officer so present :

(p) "Offence" means any act or omission made punishable by any law for the time being in force :

(q) "Cognizable offence" means an offence for, and "cognizable case" means a case in, which a Police-officer, within or without the Presidency-towns, may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant :

"Non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a Police-officer, within or without the Presidency-towns, may not arrest without warrant :

(r) "Bailable offence" means an offence shewn as bailable in the second schedule, or which is made bailable by any other law for the time being in force ; and "non-bailable offence" means any other offence :

(s) "Warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months :

(t) "Summons-case" means a case relating to an offence not so punishable :

(u) "European British subject" means—
(1) any subject of Her Majesty born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand, or in the Colony of the Cape of Good Hope or Natal ;

(2) any child or grand-child of any such person by legitimate descent :

(v) "Chapter" means a chapter of this Code ; and "Schedule" means a schedule hereto annexed :

(w) "Place" includes also a house, building, tent and vessel.

Words referring to acts done extend also to illegal omissions ; and

all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

5. All offences under the Indian Penal Code shall be inquired into and tried according to the provisions hereinafter contained ; and all offences under any other law shall be inquired into and tried according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of inquiring into or trying such offences.

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely :—

- I.—Courts of Session :
- II.—Courts of Presidency Magistrates :
- III.—Courts of Magistrates of the first class :
- IV.—Courts of Magistrates of the second class :
- V.—Courts of Magistrates of the third class.

B.—Territorial Divisions.

7. Every Province (excluding the Presidency-towns) shall be a Sessions Division, or shall consist of Sessions Divisions ;

and every Sessions Division shall, for the purposes of this Code, be a District or consist of Districts.

The Local Government may alter the limits, or, with the previous sanction of the Governor General in Council, the number, of such Divisions and Districts.

The Sessions Divisions and Districts existing when this Code comes into force shall be Sessions Divisions and Districts respectively, unless and until they are so altered.

Every Presidency-town shall, for the purposes of this Code, be deemed to be a District.

8. The Local Government may divide any District outside the Presidency-towns into Sub-divisions, or make any portion of any such District a Sub-division, and may alter the limits of any Sub-division.

All existing Sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

9. The Local Government shall establish a Court of Session for every Sessions Division, and appoint a Judge of such Court.

It may also appoint Additional Sessions Judges, Joint Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

10. In every District outside the Presidency-towns, the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the District, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

12. The Local Government may appoint as Subordinate Magistrates many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any District outside the Presidency-towns ; and the Local Government, or the District Magistrate subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such District.

13. The Local Government may place any Magistrate of the first or second class in charge of a Sub-division, and relieve him of the charge as occasion requires.

Such Magistrates shall be called Sub-divisional Magistrates.

The Local Government may delegate its powers under this section to the District Magistrate.

14. The Local Government may confer upon any person all or any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the Presidency-towns.

Such Magistrates shall be called Special Magistrates.

With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by the first paragraph of this section.

No powers shall be conferred under this section on any Police-officer below the grade of Assistant District Superintendent, and no powers shall be so conferred except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

15. The Local Government may direct any two or more Magistrates in any place outside the Presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit.

Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members who is present taking part in the proceedings as a member of the Bench belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

16. The Local Government may, or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any District respecting the following subjects:—

- (a) the classes of cases to be tried;
- (b) the times and places of sitting;
- (c) the constitution of the Bench for conducting trials;

(d) the mode of settling differences of opinion which may arise between the Magistrates in session.

17. All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Magistrates and Benches; and

every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a Sub-division shall be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may,

from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

18. The Local Government shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the Presidency-towns, and shall appoint one of such persons to be Chief Magistrate for each such town.

Any two or more of such persons may (subject to the rules made by the Chief Magistrate under the power hereinafter conferred) sit together as a Bench.

19. Every Presidency Magistrate shall exercise jurisdiction in all places within the Presidency-town for which he is appointed and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

20. Every Presidency Magistrate in the town of Bombay shall exercise all jurisdiction which, under any law in force immediately before the first day of April, 1877, was exercised in that town by the Court of Petty Sessions:

Provided that appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

21. Every Chief Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

(a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;

(b) the times and places at which Benches of Magistrates shall sit;

(c) the constitution of such Benches; and

(d) the mode of settling differences of opinion which may arise between Magistrates in session.

E.—Justices of the Peace.

22. The Governor General in Council, so far as regards the whole or any part of British India outside the Presidency-towns,

Justices of the Peace for the Muzaffar.

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

23. The Governor General in Council or the Local Government, so far as regards the town of Calcutta,

and the Local Government, so far as regards the towns of Madras and Bombay,

may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom such Governor General in Council or Local Government (as the case may be) thinks fit.

24. Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a

High Court, shall be deemed to have been appointed under section 22 by the Governor General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

25. In virtue of their respective offices, the Governor General, the Ordinary Members of the Council of the Governor General, the Judges of the High Courts and the Recorder of Rangoon are Justices of the Peace within and for the whole of British India, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

F.—Suspension and Removal.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor General in Council only shall not be suspended or removed from office by any other authority.

27. The Governor General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it.

CHAPTER III.

POWERS OF COURTS.

A.—Description of Offences cognizable by each Court.

28. Subject to the other provisions of this Code, any offence under the Indian Penal Code may be tried by the High Court or Court of Session or by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

29. Any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

When no Court is so mentioned, it may be tried by the High Court or by any Court constituted under this Code: Provided that—

(a) no Magistrate of the first class shall try any such offence which is punishable with imprisonment for a term which may exceed seven years;

(b) no Magistrate of the second class shall try any such offence which is punishable with imprisonment for a term which may extend to three years; and

(c) no Magistrate of the third class shall try any such offence which is punishable with imprisonment for a term which may extend to one year.

30. In the territories respectively administered by the Lieutenant-Governor of the Panjáb and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg and Assam, and in those parts of the other Provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

31. A High Court may pass any sentence authorized by law.

A Sessions Judge, Additional Sessions Judge or Joint Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding three years passed by an Assistant Sessions Judge shall be subject to confirmation by the Sessions Judge.

32. The Courts of Magistrates may pass the following sentences, namely:—
Sentences which Magistrates may pass.

(a) Courts of Presidency Magistrates and of Magistrates of the first class: Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law;

Fine not exceeding one thousand rupees; Whipping.

(b) Courts of Magistrates of the second class: Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law;

Fine not exceeding two hundred rupees; Whipping.

(c) Courts of Magistrates of the third class: Imprisonment for a term not exceeding one month; Fine not exceeding fifty rupees.

The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

No Court of any Magistrate of the second class shall pass a sentence of whipping unless he is specially empowered in this behalf by the Local Government.

33. The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law in case of such default: Provided that the term is not in excess of the Magistrate's powers under this Code:

Provided also that in no case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

34. The Court of a District Magistrate specially empowered under section 30 may pass any sentence of imprisonment for a term not exceeding seven years, including such solitary confinement as is authorized by law, or of fine, or of whipping, or of any combination of these punishments authorized by law.

But any sentence of imprisonment for a term exceeding three years passed by any such Court shall be subject to the confirmation of the Sessions Judge.

35. When a person is convicted, at one trial, Sentence in cases of conviction of several offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict: such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct.

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Maximum term of punishment. Provided as follows:—

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(b) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

For the purpose of confirmation or appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

C.—Ordinary and Additional Powers.

36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers".

37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

D.—Conferment, Continuance and Cancellation of Powers.

39. In conferring powers under this Code, the Local Government may by order empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles.

Aid and information to Magistrates, the police and persons making arrests.

Every such order shall take effect from the date on which it is communicated to the person so empowered.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

41. The Local Government may withdraw any powers conferred under this Code on any person by it or by any officer subordinate to it.

PART III. GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES,
THE POLICE AND PERSONS MAKING ARRESTS.

42. Every person is bound to assist a Magistrate or Police-officer reasonably demanding his aid, whether within or without the Presidency-towns,

(a) in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest;

(b) in the prevention of a breach of the peace, or of any injury attempted to be committed to any railway, canal, telegraph or public property; or

(c) in the suppression of a riot or an affray.

43. When a warrant is directed to a person other than a Police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

44. Every person, whether within or without the Presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under the following sections of the Indian Penal Code (namely) 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 419, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or Police-officer of such commission or intention.

Arrest, escape and retaking.

45. Every village-headman, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest Police-station, whichever is the nearer, any information which he may obtain respecting—

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, watchman or Police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(b) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(c) the commission of or intention to commit any non-bailable offence in or near such village;

(d) the occurrence therein of any sudden or unnatural death or of any death under suspicious circumstances.

EXPLANATION.—In this section "village" includes village-lands.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. In making an arrest, the Police-officer or other person making the arrest shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such Police-officer or other person may use all means necessary to effect the arrest.

Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death, or with transportation for life.

47. If any person acting under a warrant of arrest, or any Police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such Police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

48. If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may issue but cannot be obtained without affording the person to

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be arrested an opportunity of escape, for a Police-officer, to enter such place and search therein, and

in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or Police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

49. Any Police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

51. Whenever a person is arrested by a Police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail, but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the Police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing apparel, found upon him.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B. — Arrest without Warrant.

When police may arrest without warrant.

54. Any Police-officer may, without an order from a Magistrate and without a warrant, arrest—

first—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned;

secondly—any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of housebreaking;

thirdly—any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

fourthly—any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly—any person who obstructs a Police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; and

sixthly—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy.

This section applies to the police in the towns of Calcutta and Bombay.

55. Any officer in charge of a Police-station may, in like manner, arrest or cause to be arrested—

(a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

56. When any officer in charge of a Police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence for which the arrest is to be made.

57. When any person in the presence of a Police-officer commits or is accused of committing a non-cognizable offence, and refuses on

Refusal to give name and residence.

demand of a Police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless, before the expiration of that time, his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

58. A Police-officer may, for the purpose of Pursuit of offenders arresting without warrant into other jurisdictions, any person whom he is authorized to arrest under this chapter, pursue such person into any place in British India.

59. Any private person may arrest any person Arrest by private person. who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender;

and shall, without unnecessary delay, make over Procedure on such arrest. any person so arrested to a Police-officer; or, in the absence of a Police-officer, take such person to the nearest Police-station.

If there is reason to believe that such person comes under the provisions of section 54, a Police-officer shall re-arrest him.

If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a Police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no reason to believe that he has committed any offence, he shall be at once discharged.

60. A Police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a Police-station.

61. No Police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

62. Officers in charge of Police-stations shall Police to report apprehensions. report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

63. No person who has been arrested by a Discharge of person apprehended. Police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

65. Any Magistrate may at any time arrest or Arrest by or in presence of Magistrate. direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

66. If a person in lawful custody escapes or is Power, on escape, to be rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in British India.

67. The provisions of sections 47, 48 and 49 Provisions of sections shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a Police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

68. Every summons issued by a Court under Form of summons. this Code shall be in writing in duplicate signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Such summons shall be served by a Police-officer; or, subject to such rules consistent with this Code as the Local Government may prescribe in this behalf, by an officer of the Court issuing it.

This section applies to the police in the towns of Calcutta and Bombay.

69. The summons shall if practicable be served Summons how served. personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the

other duplicate.

70. Where the person summoned cannot by the Service when person summoned cannot be found. exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of

his family, or, in a Presidency-town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

71. If the signature mentioned in sections 69 and 70 cannot by the exercise of due diligence be obtained, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

72. Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court with the endorsement required by that section.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

74. When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed in manner provided by section 69 or section 70 by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

75. Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

76. Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person execute a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security, and shall release such person from custody.

The endorsement shall state (a) the number of sureties, (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (c) the time at which he is to attend before the Court.

Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

77. A warrant of arrest shall ordinarily be directed to one or more Police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no Police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

78. A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued is in, or enters on, his land or farm, or the land under his charge.

When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest Police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

79. A warrant directed to any Police-officer may also be executed by any other Police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

80. The Police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Processes
to compel
appearance.

81. The Police-officer or other person executing a warrant of arrest shall bring the person arrested before the Court (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed.

82. A warrant of arrest may be executed at any place in British India.

83. When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a Police-officer, forward the same by post or otherwise to any Magistrate or Commissioner of Police within the local limits of whose jurisdiction it is to be executed.

The Magistrate or Commissioner to whom such warrant is so forwarded shall endorse his name thereon, and, if practicable, cause it to be executed within the local limits of his jurisdiction.

84. When a warrant directed to a Police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

This section applies to the police in the towns of Calcutta and Bombay.

85. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest, or is nearer than the Magistrate or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner.

86. Such Magistrate or Commissioner shall, if the person arrested appears before him, be the person intended by the Court which issued the

warrant, direct his removal in custody to such Court: Provided that if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

Nothing in this section shall be deemed to prevent a Police-officer from taking security under section 76.

C.—Proclamation and Attachment.

87. If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

The proclamation shall be published as follows:—

(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides, or to some conspicuous place of such town or village; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

A statement by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

88. The Court may, after issuing a proclamation under section 87, order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

Such order shall authorize the attachment of any property belonging to such person within the district in which it is made; and it shall authorize the attachment of any property belonging to such person without such district, when endorsed by the District Magistrate within whose district such property is situate.

If the property ordered to be attached be debts or other moveable property, the attachment under this section shall be made—

(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the District in which the land is situate, and in all other cases —

(e) by taking possession; or

(f) by the appointment of a receiver; or

(g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or

(h) by all or any two of such methods, as the Court thinks fit.

The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure.

If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government under the last paragraph of section 88 appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other rules regarding processes.

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest—

(a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance

therewith and no reasonable excuse is offered for such failure.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant is present in such Court, such officer may require such person to execute a bond with or without sureties for his appearance in such Court.

92. When any person who is bound by any bond taken under this Code to appear before a Court does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

93. The provisions contained in this chapter relating to a summons and warrant and their issue, service and execution shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

94. Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a Police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, post-card, telegram or other document in the custody of the Postal or Telegraph authorities.

95. If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require

Procedure as to letters and telegrams.

Processes to compel production of documents, &c.

Processes to compel production of documents, &c.

the Postal or Telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court directs.

If any such document is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.

96. Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, paragraph one, has been or might be addressed will not or would not produce the document or other thing as required by such summons or requisition,

or where such document or other thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed may search or inspect in accordance therewith and the provisions hereinafter contained.

Nothing herein contained shall authorize any Magistrate, other than a District Magistrate or Chief Presidency Magistrate, to grant a warrant to search for a document in the custody of the Postal or Telegraph authorities.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

98. If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable—

(a) to enter, with such assistance as may be required, such place, and

(b) to search the same in manner specified in the warrant, and

(c) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and

(d) to convey such property, documents, seals, stamps, coins, instruments or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale, or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials, knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

C.—Discovery of persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person if found shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.—General Provisions relating to searches.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98 or section 100.

102. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

103. Before making a search under this chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses, but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

E.—Miscellaneous.

104. Any Court may, if it thinks fit, impound any document or other thing produced before it under this Code.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

106. Whenever any person accused of rioting, assault or other breach of the peace, or of abetting the same, or of assembling armed men

or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation by threatening injury to person or property, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.

107. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information that any person is likely to commit a breach of the peace, or to do any wrongful act that may probably occasion a breach of the peace, within the local limits of such Magistrate's jurisdiction, or that there is within such limits a person who is likely to commit a breach of the peace or do any wrongful act as aforesaid in any place beyond such limits, the Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

108. When any Magistrate not empowered to proceed under section 107, or a Court of Session or High Court, has reason to believe that any person is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by detaining such person in custody, such Magistrate or Court may issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case under section 107.

A Magistrate before whom a person is sent under this section may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.

109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—

(a) that any person is taking precautions to conceal his presence within the local limits of such

Security for
keeping
peace and
for good
behaviour.

Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing an offence, or

(b) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding six months as the Magistrate thinks fit to fix.

110. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction is an habitual robber, housebreaker or thief, or an habitual receiver of stolen property knowing the same to have been stolen, or that he habitually commits extortion, or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the Magistrate thinks fit to fix.

111. The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

112. When a Magistrate acting under section 107, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

113. If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

114. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him, before the Court:

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the

peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

115. Every summons or warrant issued under section 112 to accompany summons or warrant, shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

116. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

117. When an order under section 112 has been read or explained under section 113, to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which he has acted, and to take such further evidence as may appear necessary.

Such inquiry shall be made, as nearly as may be practicable, where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials in summons-cases; and where the order requires security for good behaviour, in the manner hereinafter prescribed for conducting trials in warrant-cases, except that no charge need be framed.

For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

118. If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided—

first—that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112.

secondly—that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

thirdly—that when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

119. If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in

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respect of whom the inquiry is made should execute a bond, the Magistrate shall make an entry on the record to that effect, and, if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

120. If any person in respect of whom an order requiring security is made under section 106 or section 118 is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

In other cases such period shall commence on the date of such order.

121. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

122. A Magistrate may refuse to accept any surety for good behaviour offered under this chapter, on the ground that, for reasons to be recorded by the Magistrate, such surety is an unfit person.

123. If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison, until such period expires or until within such period he gives the security to the Court or Magistrate which or who made the order requiring it, or to the officer in charge of the jail in which the person so ordered is detained.

When such person has been ordered by a Magistrate to give security for a period exceeding one year such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Court of Session, or, if such Magistrate be a Presidency Magistrate, pending the orders of the High Court; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit: Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

Imprisonment for failure to give security for keeping the peace shall be simple.

Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

124. Whenever the District Magistrate or a Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged.

Whenever the District Magistrate or a Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this chapter as ordered by the Court of Session or High Court may be released without such hazard, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.

125. The District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace executed under this chapter by order of any Court in his District not superior to his Court.

126. Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class to cancel any bond executed under this chapter within the local limits of his jurisdiction.

On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

CHAPTER IX.

UNLAWFUL ASSEMBLIES.

127. Any Magistrate or officer in charge of a Police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a

Assembly to disperse on command of Magistrate or Police-officer.

disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

This section applies to the police in the towns of Calcutta and Bombay.

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a Police-station whether within or without the Presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act, 1869, and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

130. When a Magistrate determines to disperse any such assembly by military force, he may require any Commissioned or Non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869, to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

Every such officer shall obey such requisition in such manner as he thinks fit; but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any Commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but, if while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

132. No prosecution against any Magistrate, Military officer, Police-officer, soldier or volunteer for any act purporting to be done under this chapter shall be instituted in any Criminal Court, except with the sanction of the Governor General in Council; and

(a) no Magistrate or Police-officer acting under this chapter in good faith,

(b) no officer acting under section 131 in good faith,

(c) no person doing any act in good faith in compliance with a requisition under section 128 or section 130, and

(d) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which under military law he was bound to obey,

shall be deemed to have thereby committed an offence.

CHAPTER X.

PUBLIC NUISANCES.

133. Whenever a District Magistrate, a Sub-divisional Magistrate or, when empowered by the Local Government in this behalf, a Magistrate of the first class, considers, on receiving a report or other information and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited, or

that the construction of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,—

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to suppress or remove such trade or occupation ; or
to remove such goods or merchandise ; or
to prevent or stop the construction of such building ; or
to remove, repair or support it ; or
to alter the disposal of such substance ; or
to fence such tank, well or excavation, as the case may be ; or

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner herein-after provided.

No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

EXPLANATION.—A "public place" includes also property belonging to the State, camping grounds, and grounds left unoccupied for sanitary and recreative purposes.

134. The order shall, if practicable, be served on the person against whom it is made in manner herein provided for service of a summons.

If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

135. The person against whom such order is made shall—

(a) perform, within the time specified in the order, the act directed thereby ; or

(b) appear in accordance with such order, and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code ; and the order shall be made absolute.

137. If he appears and shows cause against the order, the Magistrate shall take evidence in the matter.

If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

If the Magistrate is not so satisfied, the order shall be made absolute.

138. On receiving an application under section 135 to appoint a jury, the Magistrate shall—

(a) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant ;

(b) summon such foreman and members to attend at such place and time as the Magistrate thinks fit ; and

(c) fix a time within which they are to return their verdict.

139. If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

In other cases, no further proceedings shall be taken.

140. When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

No suit shall lie in respect of anything done in good faith under this section.

141. If the applicant by neglect or otherwise prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

142. If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public,

he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury.

In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. A District Magistrate or Sub-divisional Magistrate, or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE.

144. In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or of any other Magistrate specially empowered by the Local Government or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 133, direct any person to abstain from a certain act or to take certain order with certain property in his possession, or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

Any Magistrate may rescind or alter any order made under this section by himself or any Magistrate subordinate to him or by his predecessor in office.

No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs.

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

145. Whenever a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any tangible immoveable property, or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court, in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties is then in such possession of the said subject.

If the Magistrate decides that one of the parties is then in such possession of the said subject, he shall issue an order declaring such party to be entitled to retain possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction.

Nothing in this section shall preclude any party so required to attend from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed.

146. If the Magistrate decides that none of the parties is then in such possession, or is unable to satisfy himself as to which of them is then in such possession, of the subject of dispute, he may attach it until a competent Civil Court has determined the rights of the parties thereto, or the person entitled to possession thereof.

147. Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any tangible immoveable property situate within the local limits of his jurisdiction, he may inquire into the matter; and may, if it appears to him that such right exists, make an order permitting such thing to be done, or direct-

ing that such thing shall not be done, as the case may be, until the person objecting to such thing being done or claiming that such thing may be done obtains the decision of a competent Civil Court adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be:

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry; or, where the right is exercisable only at particular seasons, unless the right has been exercised during the season next before such institution.

148. Whenever a local inquiry is necessary for the purposes of this chapter, any District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry and may furnish him with such written instructions consistent with the law for the time being in force as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

The report of the person so deputed may be read as evidence in the case.

When any costs have been incurred by any party to a proceeding under this chapter for witnesses' or pleaders' fees, or both, the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. All costs so directed to be paid may be recovered as if they were fines.

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

149. Every Police-officer may interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of any cognizable offence.

150. Every Police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the Police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

151. A Police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

152. A Police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public land-mark, or buoy or other mark used for navigation.

153. Any officer in charge of a Police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures, or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

154. Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a Police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

155. When information is given to an officer in charge of a Police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

No Police officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

Any Police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a Police-station may exercise in a cognizable case.

156. Any officer in charge of a Police-station may, without the order of a Magistrate, investigate any cognizable case which a Court

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having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

No proceeding of a Police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

157. If, from information received or otherwise, an officer in charge of a Police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case and to take such measures as may be necessary for the discovery and arrest of the offender:

Provided as follows:—

(a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a Police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot:

(b) if it appear to the officer in charge of a Police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

In each of the cases mentioned in clauses (a) and (b), the officer in charge of the Police-station shall state in his said report his reasons for not fully complying with the requirements of the first paragraph of this section.

158. Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

Such superior officer may give such instructions to the officer in charge of the Police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

159. Such Magistrate, on receiving such report, may, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold an investigation or preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

160. Any Police-officer making an investigation under this chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

161. Any Police-officer making an investigation under this chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

162. No statement, other than a dying declaration, made by any person to a Police-officer in the course of an investigation under this chapter shall, if reduced to writing, be signed by the person making it, or be used as evidence against the accused.

Nothing in this section shall be deemed to affect the provisions of section 27 of the Indian Evidence Act, 1872.

163. No Police-officer or person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

But no Police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this chapter any statement which he may be disposed to make of his own free will.

164. Any Magistrate not being a Police-officer may record any statement or confession made to him in the course of an investigation under this chapter, or at any time afterwards before the commencement of the inquiry or trial.

Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is in his opinion best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and when he records any confession he shall make

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a memorandum at the foot of such record to the following effect:—

"I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

"(Signed) A. B.,
"Magistrate."

165. Whenever an officer in charge of a Police-station, or a Police-officer making an investigation, considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or other thing as directed in the summons or order, or when such document or other thing is not known to be in the possession of any person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

Such officer shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or other thing for which search is to be made, and the place to be searched; and such subordinate officer may thereupon search for such thing in such place.

The provisions of this Code as to search-warrants shall, so far as may be, apply to a search made under this section.

166. An officer in charge of a Police-station may require an officer in charge of another Police-station, whether in the same or a different District, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

167. Whenever it appears that any investigation under this chapter cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation is well-founded, the officer in charge of the Police-station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary here-

inafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

If such order be given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

168. When any subordinate Police-officer has made any investigation under this chapter, he shall report the result of such investigation to the officer in charge of the Police-station.

169. If, upon an investigation under this chapter, it appears to the officer in charge of the Police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or commit him for trial.

170. If, upon an investigation under this chapter, it appears to the officer in charge of the Police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

When the officer in charge of a Police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate a weapon or other article which it may be necessary to produce before him, and shall require the complainant, if any, and so

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many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

If the Court of the District Magistrate or Sub-divisional Magistrate be mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference be given to such complainant or persons.

The day fixed under this section shall be the day wherein the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a Police-officer,

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the Police-station may forward him under custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. Every Police-officer making an investigation under this chapter shall day by day enter his proceedings in the investigation in a

diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the Police-officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such Police-officer, the provisions of the Indian Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

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173. Every investigation under this chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the Police-station shall forward to a Magistrate empowered to take cognizance of the offence on a police report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

Where a superior officer of police has been appointed under section 158, the report shall be submitted through him, and he may, pending the orders of the Magistrate, direct the officer in charge of the Police-station to make further investigation.

Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

174. Every officer in charge of a Police-station, Police to inquire and on receiving information that report on suicide, &c. a person—

- (a) has committed suicide, or
- (b) has been killed by another, or by an animal, or by machinery, or by an accident, or
- (c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

The report shall be signed by such Police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

When there is any doubt regarding the cause of death, or when for any other reason the Police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other medical officer appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such

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putrefaction on the road as would render such examination useless.

In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the Head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

The following Magistrates are empowered to hold inquests; namely, any District Magistrate or Sub-divisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

175. An officer in charge of a Police-station may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the Police-officer to attend a Magistrate's Court.

176. When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (a), (b) and (c), any Magistrate so empowered may, hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the Police-officer; and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed, according to the circumstances of the case.

Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI. PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

178. Notwithstanding anything contained in section 177, the Local Government may direct that any cases or class of cases committed for trial in any district may be tried in any Sessions Division:

Provided that such direction be not repugnant to any direction previously issued under the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, or under this Code, section 526.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(a) A is wounded within the local limits of the jurisdiction of Court X and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(b) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

180. When an act is an offence by reason of its relation to any other act which is also an offence, or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(a) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

181. The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits,

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or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received by the accused person, or the offence was committed.

The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief or by any person who receives or retains the same knowing or having reason to believe it to be stolen.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

184. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post-office or Arms and Ammunition may be inquired into or tried in a Presidency-town, whether the offence is stated to have been committed within such town or not: Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

185. Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this chapter be inquired into or tried, the High Court within the local limits of whose appellate criminal jurisdiction the offender actually is may decide by which Court the offence shall be inquired into or tried.

In British Burma, when the offender is an European British subject, the Recorder of Rangoon,

and in all other cases the Judicial Commissioner, shall for the purposes of this section be deemed to be the High Court.

186. When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinafter provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent, or bound to appear, the case shall be reported for the orders of the High Court.

187. If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues him a warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police-officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

188. When an European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India:

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1870, in respect of the same offence in any territory beyond the limits of British India.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

190. In sections 188 and 189 the expression "Political Agent" means and includes—

(a) the principal officer representing the British Indian Government in any territory beyond the limits of British India;

(b) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under the Foreign Jurisdiction and Extradition Act, 1879, for any territory not forming part of British India.

B.—Conditions requisite for Initiation of Proceedings

191. Except as hereinafter provided, any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts;

(c) upon information received from any person other than a Police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under clause (a) or clause (b)

of offences for which he may try or commit for trial.

The Local Government may empower any Magistrate of the first or second class to take cognizance under clause (c) of offences for which he may try or commit for trial.

192. Any District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him.

Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case, to transfer it for inquiry or trial to any other specified Magistrate in his District who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

193. Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction, unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

Additional Sessions Judges and Joint Sessions Judges shall try such cases only as the Local Government by general or special order directs them to try, or as the Sessions Judge of the Division makes over to them for trial.

Assistant Sessions Judges shall try such cases only as the Sessions Judge of the Division by general or special order makes over to them for trial.

194. The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the twenty-fourth and twenty-fifth of Victoria, chapter 101.

195. No Court shall take cognizance—

(a) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, except with the previous sanction, or on the complaint, of the public servant concerned, or of some public servant to whom he is subordinate;

(b) of any offence punishable under section 193, 194, 195, 196, 197, 201, 205, 206, 207, 208, 209, 210, 211 or 228 of the same Code, when such offence is committed in, or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate,

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(c) of any offence described in section 463, or punishable under section 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed.

When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate; and no such sanction shall remain in force for more than six months from the date on which it was given.

For the purposes of this section, every Court, other than a Court of Small Causes, shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie.

The Courts of Small Causes in the Presidency-towns shall be deemed to be subordinate to the High Court, and every other Court of Small Causes shall be deemed to be subordinate to the Court of Session for the Sessions Division within which such Court is situate.

196. No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code, except section 127, or punishable under section 291A of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

197. When any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or

public servant is subordinate, and whose power to give such sanction has not been limited by such Government.

Such Government may determine the person by whom, and the manner in which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

200. A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows—

(a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192;

(b) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing:

(c) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

201. If the complaint has been made in writing and the Magistrate is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper tribunal with an endorsement to that effect.

202. If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to

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time authorize in this behalf, or any Magistrate of the first or second class, sees reason to distrust the truth of a complaint of an offence of which he is authorized to take cognizance, he may, when the complainant has been examined, record his reasons for distrusting the truth of the complaint, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a Police-officer, or by such other person, not being a Magistrate or Police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

If such investigation is made by some person not being a Magistrate or a Police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a Police-station, except that he shall not have power to arrest without warrant.

This section applies to the police in the towns of Calcutta and Bombay.

203. The Magistrate before whom a complaint is made or to whom it has been transferred may dismiss the complaint if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding and the case appears to be one in which according to the fourth column of the second schedule a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which according to that column a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or some other Magistrate having jurisdiction.

Nothing in this section shall be deemed to affect the provisions of section 90.

205. Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

206. Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, Magistrate of the first class, or any Magistrate empowered in this behalf by the Local Government may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

But save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court.

208. The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

209. When the evidence referred to in section 208, paragraphs 1 and 2, has been taken, and he has examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

210. When, upon such evidence being taken and such examination (if any) being made, the Magistrate finds that there are sufficient grounds for committing the accused for trial, he

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shall frame a charge under his hand, declaring with what offence the accused is charged.

As soon as the charge has been framed, it shall be read and explained to the accused and a copy thereof shall, if he so requires, be given to him free of cost.

211. The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

The Magistrate may in his discretion allow the accused to give in any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

212. The Magistrate may in his discretion summon and examine any witness named in any list given in to him under section 211.

213. When the accused on being required to give in a list under section 211 has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

214. If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject who is about to be committed for trial, or to be tried, before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

215. A commitment once made under section 213 or section 214 by a competent Magistrate can be quashed by the High Court only, and only on a point of law.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list as have not appeared before himself, to appear before the Court to which the accused has been committed:

Provided that where the accused has been committed to the High Court, the Magistrate may in his discretion leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly:

Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness.

217. Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary, and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court, to prosecute or to give evidence, as the case may be.

If any complainant or witness refuses to attend before the Court of Session or High Court, or to execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

218. When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

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The Charge.

When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

219. The Magistrate may summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused, by warrant, to custody.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

221. Every charge under this Code shall state the offence with which the accused is charged.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

In the Presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court.

If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date and

place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

Illustrations.

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception 1, one or other of the three provisos to that exception applied to it.

(b) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(d) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

222. The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(a) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Words in charge taken in sense of law under which offence is punishable.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

Effect of errors.

Illustrations.

(a) A is charged, under section 242 of the Indian Penal Code with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which related exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge, or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Procedure on commitment without charge or with imperfect charge.

227. Any Court may alter any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

Court may alter charge.

Every such alteration shall be read and explained to the accused.

228. If the charge framed or alteration made under section 226 or section 227 is such that the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may in its discretion, after such charge or alteration has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When trial may proceed immediately after alteration.

229. If the new or altered charge is such that the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

When new trial may be directed, or trial suspended.

230. If the offence stated in the new or altered charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge requires previous sanction.

231. Whenever a charge is altered by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration, any witness who may have been examined.

Recall of witnesses when charge altered.

232. If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

Effect of material error.

If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of Charges.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Separate charges for distinct offences.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

234. When a person is accused of more offences than one of the same kind,

Three offences of same kind within year may be charged together. committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code, or of any special or local law.

235. 1.—If, in one series of acts so connected

I.—Trial for more than one offence. together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

II.—If the acts alleged constitute an offence

II.—Offence falling within two definitions. falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with and tried at one trial for each of such offences.

III.—If several acts, of which one or more than

III.—Acts constituting one offence, but constituting when combined a different offence. one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined, or for any offence constituted by any one, or more, of such acts.

Nothing contained in this section shall affect the Indian Penal Code, section 71.

Illustrations

to paragraph I—

(a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and tried for, offences under sections 225 and 333 of the Indian Penal Code.

(b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(d) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 468 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding, and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(f) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(g) A, with six others, commits the offences of rioting, grievous hurt, and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code.

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (a) to (h) respectively may be tried at the same time.

to paragraph II—

(i) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

(j) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a gran-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

(l) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 190 of the same Code.

to paragraph III—

(m) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code.

236. If a single act or series of acts is of such

a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

237. If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

238. When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he is not charged with it.

Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations.

(a) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(b) A is charged under section 325 of the Indian Penal Code with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

239. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit; and the provisions contained in the former part of this chapter shall apply to all such charges.

Illustrations.

(a) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(b) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(c) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

240. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

244. If the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

245. If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

If he finds the accused guilty, he shall pass sentence upon him according to law.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused or any day subsequent thereto to which the hearing may be adjourned the complainant does not appear, the Magistrate shall, notwithstanding anything herebefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day.

248. If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, or a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

250. If, in any case instituted upon complaint, a Magistrate acquits the accused under section 245 or section 247, and is of opinion that the complaint was frivolous or vexatious, he may, in his discretion, by his order of acquittal, direct the complainant to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit.

The sum so awarded shall be recoverable as if it were a fine. Provided that, if it cannot be realized, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

CHAPTER XXL

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

252. When the accused appears or is brought before a Magistrate, such evidence for prosecution as the Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

253. If upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which if un rebutted would warrant his conviction, the Magistrate shall discharge him.

Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

254. If, when such evidence and examination have been taken and made, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

255. The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

256. If the accused refuses to plead or does not plead, or claims to be tried, he shall be called upon to enter upon his defence and to produce his evidence, and shall, at any time while he is making his defence, be allowed to recall and cross-examine any witness for the prosecution present in the Court or its precincts.

If the accused puts in any written statement, the Magistrate shall file it with the record.

257. If the accused applies to the Magistrate to issue any process for compelling the attendance of any witness (whether he has or has not been previously examined in the case) for the purposes of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay, or for defeating the ends of justice. Such ground shall be recorded by him in writing.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

258. If in any case under this chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.

259 When the proceedings have been instituted upon complaint and upon any day fixed for the hearing of the case the complainant is absent and the offence may be lawfully compounded, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

CHAPTER XXII.

OF SUMMARY TRIALS.

260. Notwithstanding anything contained in this Code,

(1) the District Magistrate,

(2) any Magistrate of the first class specially empowered in this behalf by the Local Government, and

(3) any Bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by the Local Government may try in a summary way all or any of the following offences:—

(a) Offences not punishable with death, transportation or imprisonment for a term exceeding six months;

(b) Offences relating to weights and measures, under sections 264, 265 and 266 of the Indian Penal Code;

(c) Hurt, under section 323 of the same Code;

(d) Theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees;

(e) Receiving or retaining stolen property, under section 411 of the same Code, where the value of such property does not exceed fifty rupees;

(f) Assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees;

(g) Mischief, under section 427 of the same Code;

(h) House-trespass, under section 448 of the same Code;

(i) Insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code;

(j) Abetment of any of the foregoing offences;

(k) An attempt to commit any of the foregoing offences, when such attempt is an offence;

Provided that no case in which a District Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

261. The Local Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences:—

(a) Offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426 and 417;

(b) Offences against Municipal Acts, and the conservancy-clauses of Police Acts, punishable only with fine, or with imprisonment for a term not exceeding one month;

(c) Abetment of any of the foregoing offences;

(d) An attempt to commit any of the foregoing offences, when such attempt is an offence.

262. In trials under this chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this chapter.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the Local Government may direct the following particulars:—

(a) the serial number;

(b) the date of the commission of the offence;

(c) the date of the report or complaint;

(d) the name of the complainant (if any);

(e) the name, parentage and residence of the accused;

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High Courts
and Courts
of Session.*

(f) the offence complained of and the offence (if any) proved, and in cases coming under clause (d), clause (e) or clause (f) of section 260 the value of the property in respect of which the offence has been committed;

(g) the plea of the accused and his examination (if any);

(h) the finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(i) the sentence or other final order; and

(j) the date on which the proceedings terminated.

264. In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

Such judgment shall be the only record in cases coming within this section.

265. Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

A.—Preliminary.

266. In this chapter, except in section 307, the expression "High Court" means a High Court of Judicature established or to be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, and includes the Chief Court of the Panjáb, and such other Courts as the Governor General in Council may, by notification in the *Gazette of India*, declare to be High Courts for the purposes of this chapter.

267. All trials under this chapter before a High Court shall be by jury;

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, the trial may, if the High Court so directs, be by jury.

Trials before Court of Session to be by jury or with assessors.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

269. The Local Government may, by order in the official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any District, and may revoke or alter such order.

When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for all such offences.

270. In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

271. When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

273. In trials before the High Court, when it appears to the High Court at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

C.—Choosing a Jury.

274. In trials before the High Court the jury shall consist of nine persons.

In trials by jury before the Court of Session, the jury shall consist of such uneven number not being less than three, or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may direct.

Trials before High Courts and Courts of Session.

High Court of Session.

275. In a trial by jury, before the Court of Session, of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who are neither Europeans nor Americans.

276. The jurors shall be chosen by lot from the persons summoned to act as such, in such manner as the High Court may from time to time by rule direct:

Provided that—
first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present; and
thirdly, in the Presidency towns—

(a) if the accused person is charged with having committed an offence punishable with death, or

(b) if in any other case a Judge of the High Court so directs, the jurors shall be chosen from the special jury list hereinafter prescribed.

277. As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated:

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:—

- (a) some presumed or actual partiality in the juror;
- (b) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years;
- (c) his having by habit or religious vows relinquished all care of worldly affairs;

(d) his holding any office in or under the Court; or

(e) his executing any duties of police or being entrusted with police duties;

(f) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury;

(g) his inability to understand the language in which the evidence is given, or, when such evidence is interpreted, the language in which it is interpreted;

(h) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

279. Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

If the objection is allowed, the place of such juror shall be supplied by another juror attending in obedience to a summons and chosen in manner provided by section 276; or, if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury, provided that no objection to such juror or other person is taken under section 278 and allowed.

280. When the jurors have been chosen, they shall appoint one of their number to be foreman.

The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873.

282. If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given, or, when such evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen. In each of such cases the trial shall commence anew.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

Trials before High Courts and Courts of Session.

D.—Choosing Assessors.

284. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such.

285. If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

E.—Trial to Close of Cases for Prosecution and Defence.

286. When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

The prosecutor shall then examine his witnesses.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.

288. The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case.

289. When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

If he says that he does not, the prosecutor may sum up his case; and if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict, of not guilty.

If the accused or any one of several accused says that he means to adduce evidence and the Court considers that there is no evidence that the accused committed the offence, the Court may

then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict, of not guilty.

If the accused, or any one of several accused says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

290. The accused or his pleader may then open his case, stating the facts and law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

292. If the accused, or any of the accused, has stated, when asked under section 289, that he means to adduce evidence, the prosecutor shall be entitled to reply.

293. Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Trials before High Courts and Courts of Session.

*Trials
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296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day, and, subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in Cases tried by Jury.

297. In cases tried by jury, when the case for the defence, and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

298. In such cases, it is the duty of the Judge—
Duty of Judge.

(a) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(b) to decide upon the meaning and construction of all documents given in evidence at the trial;

(c) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(d) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(a) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(b) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

299. It is the duty of the jury—
Duty of jury.

(a) to decide which view of the facts is true, and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(b) to determine the meaning of all technical terms (other than terms of law) and words used in

an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(c) to decide all questions which according to law are to be deemed questions of fact;

(d) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

(a) *A* is tried for the murder of *B*.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts *A* ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(b) The question is whether a person entertained a reasonable belief on a particular point,—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.
Retirement to consider.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.
Delivery of verdict.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.
Procedure where jury differ.

303. Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.
Verdict to be given on each charge.
Judge may question jury.

Such questions and the answers to them shall be recorded.
Questions and answers to be recorded.

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.
Amending verdict.

305. When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opi-
Verdict in High Court when to prevail.

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nion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

If the Judge disagrees with the majority, he shall at once discharge the jury.

If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

306. When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

307. If in any such case the Sessions Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, so completely that he considers it necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed.

Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody or admit him to bail.

In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal; but it may acquit or convict the accused of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury, unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

H.—Conclusion of Trial in Cases tried with Assessors.

309. When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded,

the Court may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally, and shall record such opinion.

The Judge shall then give judgment; but in doing so shall not be bound to conform to the opinions of the assessors.

If the accused is convicted, the Judge shall pass sentence on him according to law.

I.—Procedure in Case of Previous Conviction.

310. In the case of a trial by jury or with the aid of assessors, where the accused is charged with an offence committed after a previous conviction, for any offence, the procedure laid down in sections 271, 286, 305, 306 and 309 shall be modified as follows:—

(a) The part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence.

(b) If he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the charge.

(c) If he answers that he has been so previously convicted the Judge may proceed to pass sentence on him accordingly; but, if he denies that he has been so previously convicted, or refuses to, or does not answer such question, the jury or the Court and the assessors (as the case may be) shall then inquire concerning such previous conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

J.—List of Jurors for High Court, and summoning Jurors for that Court.

311. In each Presidency-town, the jurors' book for the year current when this Code comes into force shall be taken as containing a correct list of persons liable to serve as jurors under this chapter.

Those persons whose names are entered in the jurors' book as being liable to serve on special juries only shall be deemed to be persons privileged and liable to serve only as special jurors under this chapter during the year for which the said list has been prepared.

312. The names of not more than two hundred persons shall at any one time be entered in the special jurors' list.

313. The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare—

(a) a list of all persons liable to serve as common jurors; and

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(b) a list of persons liable to serve as special jurors only.

Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

The Governor General in Council in the case of the High Court at Calcutta, and, in the case of other High Courts, the Local Government, may exempt any salaried officer of Government from serving as a juror.

The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion of officer preparing lists. discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

314. Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

315. Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each Presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

No person shall be so summoned more than once in six months unless the number cannot be made up without him.

If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the Presidency-towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

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317. In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-commissioned officers in Her Majesty's Army resident within ten miles of its place of sitting, as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

318. Any person summoned under section 315, section 316 or section 317, who without lawful excuse fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable by order of the Judge to such fine as he thinks fit; and, in default of payment of such fine, to imprisonment in the civil jail until the fine is paid.

K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the District in which they reside.

320. The following persons are exempt from liability to serve as jurors or assessors, namely:—

(a) Officers in civil employ superior in rank to a District Magistrate;

(b) Judges;

(c) Commissioners and Collectors of Revenue or Customs;

(d) Persons engaged in the Preventive Service in the Customs Department;

(e) Persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;

(f) Persons actually officiating as priests or ministers of their respective religions;

(g) Persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors;

(h) Surgeons and others who openly and constantly practise the medical profession;

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(i) Persons employed in the Post-office and Telegraph Departments;

(j) Persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641;

(k) Other persons exempted by the Local Government from liability to serve as jurors or assessors.

321. The Sessions Judge, and the Collector of the District or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (b) to (d), both inclusive.

The list shall contain the name, place of abode and quality or business of every such person; and if the person is an European or an American, the list shall mention the race to which he belongs.

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the Court-houses of the District Magistrate and of the District Court, and in some conspicuous place in the town or towns in or near which the persons named in the list reside.

323. To every such copy shall be subjoined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the Sessions Court-house, and at a time to be mentioned in the notice.

324. For the hearing of such objections, the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may establish his right to any exemption from service given by section 320, and insert the name of any person omitted from the list whom they deem qualified for such service.

In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

325. The list so prepared and revised shall be again revised once in every year.

The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

326. The Sessions Judge shall, ordinarily, three days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any such trial.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever for other reasons such direction is found to be necessary.

328. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

329. Where any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears, on the representation of the head of the office in which he is employed, that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

330. The Court of Session may for reasonable cause excuse any juror or assessor from attendance at any particular session.

331. At each session, the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

Such list shall be kept with the list of the jurors and assessors as revised under section 324.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

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332. Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable, by order of the Court of Session, to a fine not exceeding one hundred rupees.

Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may by order of the Court of Session be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for High Courts.

333. At any stage of any trial before a High Court under this Code before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

335. The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

But it may, from time to time, in the case of the High Court at Fort William with the consent of the Governor General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Such officer as the Chief Justice directs shall give notice before and in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court,

or direct that they shall be tried at a particular place named.

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

337. In the case of any offence triable exclusively by the Court of Session or High Court, the District Magistrate, a Presidency Magistrate, any Magistrate of the first class inquiring into the offence, or, with the sanction of the District Magistrate, any other Magistrate, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence, and to every other person concerned, whether as principal or abettor, in the commission thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial by the Court of Session or High Court, as the case may be.

Every Magistrate, other than a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing; and when any Magistrate has made such tender and examined the person to whom it has been made, he shall not try the case himself, although the offence which the accused appears to have committed may be triable by such Magistrate.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

339. Where a pardon has been tendered under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false

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evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been withdrawn under this section.

No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

340. Every person accused before any Criminal Court may of right be defended by a pleader.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

342. For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial, without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined, and before he is called on for his defence.

The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

No oath shall be administered to the accused.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

344. If, from the absence of a witness or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, the Court may, by order in writing, stating the reasons therefor, from time to time postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

EXPLANATION.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

345. The offences punishable under the sections of the Indian Penal Code described in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table:—

Offence.	Sections of Indian Penal Code applicable.	Person by whom offence may be compounded.
Uttering words, &c., with deliberate intent to wound the religious feelings of any person	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person	341, 342	The person restrained or confined.
Assault or use of criminal force	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House-trespass	448	

General
Provisions
as to In-
quiries and
Trials.

General
Provisions
as to In-
quiries and
Trials.

Offence.	Sections of Indian Penal Code appli- cable.	Person by whom offence may be compounded.
Criminal Breach of Con- tract of service ...	490, 491, 492	The person with whom the of- fender has con- tracted.
Adultery ...	497	
Enticing or taking away or detaining with a criminal intent a married woman ...	498	The husband of the woman
Defamation ...	500	
Printing or engraving matter knowing it to be defamatory ...	501	The person de- famed.
Sale of printed or en- graved substance con- taining defamatory matter, knowing it to contain such matter ...	502	
Insult intended to pro- voke a breach of the peace ...	504	The person in- sulted.
Criminal intimidation, except when the offence is punishable with im- prisonment for seven years ...	506	The person inti- midated.

The offence of voluntarily causing hurt, voluntarily causing grievous hurt, causing hurt by an act which endangers life, or causing grievous hurt by an act which endangers life, punishable under section 324, section 335, section 337, or section 338 of the Indian Penal Code, may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom the hurt has been caused.

When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot or a lunatic, any person competent to contract on his behalf may compound such offence.

The composition of an offence under this section shall have the effect of an acquittal of the accused.

No offence not mentioned in this section shall be compounded.

346. If, in the course of an inquiry or a trial before a Magistrate in any district outside the Presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate, or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

347. If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions herebefore contained.

If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

348. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate before whom he is accused considers him an habitual offender, be committed to the Court of Session or High Court, as the case may be; or, in districts in which the District Magistrate has been invested with powers under section 30, placed on his trial before such Magistrate.

349. Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion after hearing the evidence for the prosecution and the accused that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence; and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law: Provided that he shall not inflict a punishment

more severe than he is empowered to inflict under sections 32 and 33.

350. Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and re-commence the inquiry or trial:

Provided as follows:—

(a) In any trial, the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard:

(b) The High Court, or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate, may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby; and may order a new inquiry or trial.

Nothing in this section applies to cases in which proceedings have been stayed under section 346.

351. Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of examination, for any offence of which such Court can take cognizance and which, from the evidence, he may appear to have committed; and may be proceeded against as though he had been arrested or summoned.

When the detention takes place in the course of an inquiry under Chapter XVIII, or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh and the witnesses re-heard.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

355. In summons-cases tried before a Magistrate, other than a Presidency Magistrate, and in cases of the offences mentioned in section 260, clauses (b) to (k), both inclusive, when tried by a Magistrate of the first or second class, the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

356. In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates) and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court, by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence, and shall be signed by the Magistrate or Sessions Judge.

When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness

proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

357. The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of each witness shall in the cases referred to in section 356 be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

Provided that the Local Government may direct the Sessions Judge or Magistrate to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the Local Government has made the order referred to in section 357, in the manner provided in the same section.

359. Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

The Magistrate or Sessions Judge may in his discretion take down, or cause to be taken down, any particular question and answer.

360. As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

361. Whenever any evidence is given in a language not understood by the accused and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

362. In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may in his discretion take down, or cause to be taken down, any particular question or answer.

Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

364. Whenever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter or the Chief Court of the Panjáb, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or English; and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of

such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing, and that the record contains a full and true account of the statement made by the accused.

In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presidency Magistrate, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

365. Every High Court established by Royal Charter and the Chief Court of the Panjab may from time to time by general rule prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

CHAPTER XXVI.

OF THE JUDGMENT.

366. The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court either immediately or at some subsequent time of which due notice shall be given to the parties or their pleaders; and the accused shall, if in custody, be brought up, or if not in custody shall be required to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only, in which case it may be pronounced in the presence of his pleader.

367. Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon, and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

When the conviction is under the Indian Penal Code, and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed:

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

368. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

No sentence of transportation shall specify the place to which the person sentenced is to be transported.

369. No Court, other than a High Court, when it has signed its judgment shall alter or review the same, except as provided in section 395 or to correct a clerical error.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars:—

- the serial number of the case;
- the date of the commission of the offence;
- the name of the complainant (if any);
- the name of the accused person, and (except in the case of an European British subject) his parentage and residence;
- the offence complained of or proved;
- the plea of the accused and his examination (if any);
- the final order;
- the date of such order; and
- in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

371. The judgment shall be explained to the accused, and on his application a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

*Submission
of Sentences
for Con-
firmation.*

In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the application of the accused, be given to him without delay and free of cost.

When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

372. The original judgment shall be filed with the record of proceedings, and where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court.

375. If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself or direct it to be made or taken by the Court of Session.

Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such examination and hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

379. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court, and attested with his official signature, to the Court of Session.

380. When a sentence passed by an Assistant Sessions Judge or by a District Magistrate acting under section 34 is submitted to a Sessions Judge for confirmation, such Sessions Judge—

(a) may confirm the sentence, or pass any other sentence which the lower Court might have passed ; or

(b) may annul the conviction, and convict the accused of any offence of which the lower Court might have convicted him, or order a new trial on the same or an amended charge ; or

(c) may acquit the accused ; or

(d) if he thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

Unless the Court of Sessions otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or evidence taken ; and, when the sentence has been submitted by an Assistant Sessions Judge, such inquiry shall not be made, nor shall such evidence be taken, in the presence of jurors or assessors.

When the inquiry and the evidence (if any) are not made and taken by the Court of Sessions, the result of such inquiry and the evidence shall be certified to such Court.

*Submission
of Sentences
for Con-
firmation.*

CHAPTER XXVIII.

OF EXECUTION.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

382. If a woman sentenced to death be found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence to transportation for life.

383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 351, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is to be confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

386. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

387. Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the distress and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

388. When an offender has been sentenced to fine only, and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 356, it may suspend the execution of the sentence of imprisonment and may release the offender

on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized the Court may direct the sentence of imprisonment to be carried into execution at once.

389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence or by his successor in office.

390. When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct.

391. When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal be made within that time, until the sentence is confirmed by the Appellate Court; but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

392. In the case of a person of or over sixteen years of age, whipping shall be inflicted with a light ratan not less than half an inch in diameter, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

In no case shall such punishment exceed thirty stripes.

393. No sentence of whipping shall be executed by instalments; and none of the following persons shall be punishable with whipping (namely):—

- (a) females;
- (b) males sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years;
- (c) males whom the Court considers to be more than forty-five years of age.

394. The punishment of whipping shall not be inflicted unless a Medical Officer, if present, certifies, or, if there is not a Medical Officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

If, during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

395. In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

396. When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say:—

If the new sentence is severer in its quality than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

When the new sentence is not severer in its quality than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

EXPLANATION.—For the purposes of this section—

(a) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment;

(b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

397. When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced:

Provided that if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction be one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

398. Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

399. When any person under the age of sixteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed.

400. When a sentence has been fully executed, the officer executing it shall return the warrant on execution of sentence. return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

401. When any person has been sentenced to punishment for an offence, the Governor General in Council, or the Local Government, may at any time, without conditions, or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

Previous
Acquittals
or Convic-
tions.

Whenever an application is made to the Governor General in Council or the Local Government for the suspension or remission of a sentence, the Governor General in Council or the Local Government, as the case may be, may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

If the person in whose favour a sentence has been suspended or remitted fails to fulfil the conditions prescribed by the Governor General in Council or the Local Government, the Governor General in Council or the Local Government, as the case may be, may cancel such suspension or remission, whereupon such person may, if at large, be arrested by any Police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions of punishment.

402. The Governor General in Council, or the Local Government, may without the consent of the person sentenced commute any one of the following sentences for any other mentioned after it:—

death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS.

403. A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, paragraph one.

A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

EXPLANATION.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused, or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried upon a charge of murder and acquitted. There is no charge of robbery: but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(c) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(d) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(e) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph three of this section.

(f) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(g) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.

404. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court, may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeals.

406. Any person required by a Magistrate, other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 118, may appeal to the District Magistrate.

407. Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals shall be presented to such Subordinate Magistrate, or if already presented to the District Magistrate shall be transferred to such Subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 by a Magistrate of the first class, may appeal to the Court of Session :

Provided as follows :—

(a) when in any case an Assistant Sessions Judge or a District Magistrate passes any sentence which is subject to the confirmation of the Court of Session, every appeal in such case shall lie to the High Court, but shall not be presented until the case has been disposed of by the Court of Session ;

(b) any European British subject so convicted may at his option appeal either to the High Court or the Court of Session.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional or Joint Sessions Judge.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional or a Joint Sessions Judge, may appeal to the High Court.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or a Presidency Magistrate on such plea, there shall be no appeal except as to the extent or legality of the sentence.

413. Notwithstanding anything hereinbefore contained, there shall be no appeal in petty cases by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

EXPLANATION.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has been passed.

414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

EXPLANATION.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

416. Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII on European British subjects.

417. The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

418. An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

EXPLANATION.—The alleged severity of a sentence shall for the purposes of this section be deemed to be a matter of law.

Appeals.

Appellate Court

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

421. On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may reject the appeal summarily: Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

Before rejecting an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

422. If the Appellate Court does not reject the appeal summarily, it shall cause notice to be given to the appellant or his pleader and to such officer as the Local Government may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal,

and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

423. The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused, if he appears, the Court may, if it considers there is no sufficient ground for interfering, dismiss the appeal, or may—

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court, or committed for trial, or (2) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or (3) with or without such reduction, and with or without altering the finding, alter the nature of the sentence, but not so as to enhance the same;

(c) in an appeal from any other order, alter or reverse such order:

(d) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

425. Whenever a case is decided on appeal by the High Court under this chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and, if necessary, the record shall be amended in accordance therewith.

426. Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, if he is in confinement, that he be released on bail or on his own bond.

The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

427. When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

428. In dealing with any appeal under this chapter, the Appellate Court, if it thinks additional evidence to be necessary, may either take such evidence itself, or direct it to be taken by a Magistrate,

Reference
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Revision.

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or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors or assessors.

The taking of evidence under this section shall for the purposes of Chapter XXV be deemed to be an inquiry.

429. When the Judges composing the Court of appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such examination and such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

431. Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this chapter shall finally abate on the death of the appellant.

CHAPTER XXXII.

OF REFERENCE AND REVISION.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference; and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

433. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

The High Court may direct by whom the costs of such reference shall be paid.

434. When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail,

and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit.

435. The High Court or any Court of Session, or District Magistrate, or any Sub-divisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction, for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court.

If any Sub-divisional Magistrate acting under this section considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

Orders made under sections 113 and 144 and proceedings under section 176 are not proceedings within the meaning of this section.

436. When, on examining the record of any case under section 435 or otherwise, the Court of Session or District Magistrate considers that such case is triable exclusively by the Court of Session, and that an accused person has been improperly discharged by the inferior Court, the Court of Session or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Court of Session or District Magistrate, improperly discharged:

Provided as follows—

(a) that the accused has had an opportunity of showing cause to such Court or Magistrate why the commitment should not be made:

(b) that, if such Court or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Court or Magistrate may direct the inferior Court to inquire into such offence.

437. On examining any record, under section 435 or otherwise, the High Court or Court of Session may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203, or into the case of any accused person who has been discharged.

438. The Court of Session or District Magistrate may, if it or he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the results of such examination, and, when such report contains a recommendation that a sentence be reversed, may order that the execution of such sentence be suspended, and if the accused is in confinement that he be released on bail or on his own bond.

439. In the case of any proceeding the record of which has been called for by itself, or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of appeal by sections 195, 423, 426, 427 and 428, or on a Court by section 438, and may enhance the sentence, and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 31, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision: Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, paragraph two.

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision or order.

442. When a case is revised under this chapter by the High Court, it shall certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.

443. No Magistrate, unless he is a Justice of the Peace, and (except in the case of a Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

444. No Judge presiding in a Court of Session shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, if he is an Assistant Sessions Judge, unless he has held the office of Assistant Sessions Judge for at least three years, and has been specially empowered in this behalf by the Local Government.

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

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against
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446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both.

447. When an European British subject is accused of an offence before a Magistrate, and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court.

When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences.

449. Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both.

If, at any time after the commitment and before signing judgment, the presiding Judge thinks that the offence which appears to be proved cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court.

450. If the Judge of the Sessions Division within which the offence is ordinarily triable is not an European British subject, the case shall be reported by the committing Magistrate for the orders of the highest Court of criminal appeal for the province within which such division is situate.

In British Burma the Court of the Recorder of Rangoon shall, for the purposes of this section, be deemed to be the highest Court of criminal appeal.

451. In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is ap-

pointed, as the case may be, any such subject requires to be tried by a mixed jury, or by a mixed set of assessors, not less than half the number of the jurors or assessors shall be Europeans or Americans, or both Europeans and Americans.

452. In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately:

Provided that, if the European British subject requires under section 451 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of Chapter XXIII.

453. When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further inquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

When the Court before which any person is tried decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

454. If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject, and shall not assert it in any subsequent stage of the same case.

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against
Europeans
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Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

455. Where a person who is not an European British subject is dealt with as such under this chapter, and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid.

456. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf may apply to the High Court which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained, or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass.

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor General in Council may direct.

459. Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons be not expressly referred to therein.

Nothing in this section shall be deemed to authorize any Court to exceed the limits prescribed by this chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate not being a Justice of the Peace or on any Magistrate or Sessions Judge outside the Presidency towns not being an European British subject.

460. In every case triable by jury or with the aid of assessors, in which an European (not being an European British subject) or an American is the accused person, or one of the

accused persons, not less than half the number of jurors or assessors shall, if practicable and if such European or American so claims, be Europeans or Americans.

461. Whenever an European or American is charged before the Court of Session jointly with a person not an European or American, and in compliance with a claim made under section 460 is tried by a jury, or with the aid of a set of assessors, of which at least one-half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately.

462. When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 451 or section 460, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons has been already summoned for trials by jury at that session.

From the whole number of persons returned, the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained:

Provided that in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

463. Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans, before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

CHAPTER XXXIV.

LUNATICS.

464. When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the District or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall postpone further proceedings in the case.

465. If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury or the Court with the aid of assessors shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

466. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

If the case is one in which bail may not be taken, or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, and the Local Government may order the accused to be confined in a lunatic asylum or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

467. Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

468. If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

471. Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the orders of the Local Government.

The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

472. When any person is confined under the provisions of section 466 or section 471, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylum, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the

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certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

474. If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a commission, consisting of a judicial and two medical officers.

Such commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

475. Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

The provisions of sections 472 and 474 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

476. When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195, and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate of the first class, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

Such Magistrate shall thereupon proceed according to law, and may, if he is authorized under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate.

477. Subject to the provisions of section 444, a Court of Session may charge a person for any offence referred to in section 195 and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail and try, such person upon its own charge.

Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

478. When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

For the purposes of an inquiry under this section, the Civil or Revenue Court may, subject to the provisions of section 113, exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, and shall be deemed to have been held by a Magistrate.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorized to commit for trial; and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

480. When any such offence as is described in section 175, section 178, section 179, section 180, or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender, whether he is an European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

*Proceedings
in case of
certain
offences
affecting
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Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

481. In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

482. If the Court in any case considers that a person accused of any of the offences referred to in section 180 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 180, such Court, after recording the facts constituting the offence and the statement of the accused as herebefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, shall forward such person under custody to such Magistrate.

The Magistrate to whom any case is forwarded under this section shall proceed to hear the complaint against the accused person in manner herebefore provided.

483. When the Local Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877 shall be deemed to be a Civil Court within the meaning of sections 180 and 182.

484. When any Court has under section 180 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

485. If any witness before a Criminal Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of

an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 483, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

486. Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding or reduce or reverse the sentence appealed against.

An appeal from such conviction by a Court of Small Causes in a Presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the Sessions Division within which such Court is situated.

An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the Presidency-towns, to the High Court.

487. Except as provided in sections 177, 180 and 183, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court, the Recorder of Rangoon, and the Presidency Magistrates, shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

Nothing in section 476 or section 182 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court, or shall prevent a Presidency Magistrate from himself disposing of any case instead of sending it for inquiry to another Magistrate.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

488. If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magis-

Imprisonment or commitment of person refusing to answer or produce document

Order for maintenance of wives and children.

Maintenance of
Wives and
Children.

trate, or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Such allowance shall be payable from the date of the order.

If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month:

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her; and may make an order under this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

All evidence under this chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases.

489. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order shall be enforceable by any Magistrate in any place where the person against

whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A HABEAS CORPUS.

491. Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(a) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law;

(b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(c) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any Commission from the Governor General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(e) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(f) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

Nothing in this section applies to persons detained under Bengal Regulation III of 1818, Madras Regulation II of 1819 or Bombay Regulation XXV of 1827, or the Acts of the Governor General in Council No. XXXIV of 1850 or No. III of 1858.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

492. The Governor General in Council or the Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal; and, if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions.

494. Any Public Prosecutor appointed by the Governor General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person; and, upon such withdrawal,

(a) if it is made before a charge has been framed, the accused shall be discharged;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted.

495. Any Magistrate inquiring into or trying any case may permit any person other than an officer of police below the rank of Police Inspector to conduct the prosecution; but no person, other than the Advocate General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

Any person conducting the prosecution may do so personally or by a pleader.

CHAPTER XXXIX.

OF BAIL.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a Police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead

of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

497. When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a Police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody.

498. The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a Police-officer or Magistrate be reduced.

499. Before any person is released on bail or released on his own bond, a bond for such sum of money as the Police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the Police-officer or Court, as the case may be.

If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

500. As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and when he is in jail the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

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501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it, and may order him to find sufficient sureties, and on his failing so to do may commit him to jail.

502. All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond either wholly or so far as relates to the applicants.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the person so released be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

503. Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

When the witness resides in the dominions of any Prince or State in alliance with Her Majesty in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

504. If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the thirty-ninth and fortieth of Victoria, chapter 46, section 3.

505. The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed shall examine the witness upon such interrogatories.

Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

507. After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XLI.

SPECIAL RULES OF EVIDENCE.

509. The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

510. Any document purporting to be a report under the hand of the Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

511. In any inquiry, trial or other proceeding under this Code a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,—

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order; or

(b) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

512. If it be proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into or trial for the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix in lieu of executing such bond.

514. Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person.

Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the distress and sale of any moveable property belonging to such person within such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

The Court may at its discretion remit any portion of the penalty mentioned and enforce payment in part only.

515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

517. When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal of any document or other property produced before it regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is livestock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

EXPLANATION.—In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court; and may modify, alter or annul such order.

521. On a conviction under the Indian Penal Code, section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

The Court may in like manner, on a conviction under the Indian Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

522. Whenever a person is convicted of an offence attended by criminal force, and it appears to the Court that, by such force, any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same.

No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

523. The seizure by any Police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it, and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before him and establish his claim within six months from the date of such proclamation.

524. If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate or of a Magistrate of the first class empowered by the Local Government in this behalf.

In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

525. If the person entitled to the possession of such property is unknown or absent, and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

526. Whenever it is made to appear to the High Court—
High Court may transfer case, or itself try it.

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(d) that an order under this section will tend to the general convenience of the parties or witnesses,

it may order—

(1) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence;

(2) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction; or

(3) that any particular criminal case or appeal be transferred to and tried before itself.

When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

Every application for the exercise of the power conferred by this section shall be made by motion which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecutor.

Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Nothing in this section shall be deemed to affect any order made under section 197.

527. The Governor General in Council may, by notification in the *Gazette of India*, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

528. Any District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

The Local Government may authorize the District Magistrate to withdraw from the Magistrates subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

529. If any Magistrate not empowered by law to do any of the following things, namely:—

(a) to issue a search-warrant, under section 98;

(b) to order, under section 155, the police to investigate an offence;

(c) to hold an inquest under section 176;

(d) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;

Irregular Proceedings.

(e) to take cognizance of an offence under section 191, clause (a) or clause (b);

(f) to transfer a case under section 192;

(g) to tender a pardon under section 337 or section 338;

(h) to sell property under section 524 or section 525; or

(i) to withdraw a case and try it himself under section 524;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things (namely):—

(a) attaches and sells property under section 68;

(b) issues a search-warrant for a letter in the Post-office, or a telegram in the Telegraph Department;

(c) demands security to keep the peace;

(d) demands security for good behaviour;

(e) discharges a person lawfully bound to be of good behaviour;

(f) cancels a bond to keep the peace;

(g) makes an order under section 133 as to a local nuisance;

(h) prohibits under section 143 the repetition or continuance of a public nuisance;

(i) issues an order under section 144;

(j) makes an order under Chapter XII;

(k) takes cognizance under section 191, clause (c), of an offence;

(l) passes a sentence under section 349, on proceedings recorded by another Magistrate;

(m) calls under section 435, for proceedings;

(n) makes an order for maintenance;

(o) revises under section 515, an order passed under section 514;

(p) tries an offender;

(q) tries an offender summarily; or

(r) decides an appeal;

his proceedings shall be void.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed took place in a wrong Sessions Division, District, Sub-division or other local area, unless it appears that such error occasioned a failure of justice.

532. If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of

Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless, during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment, and direct a fresh inquiry by a competent Magistrate.

533. If any Court before which a confession or other statement of an accused person recorded under section 164 or section 364 is tendered in evidence finds that the provisions of such section have not been fully complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and, notwithstanding anything contained in the Indian Evidence Act, section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits.

534. An omission to ask any person whether he is an European British subject in a case to which the second clause of section 454 applies shall not affect the validity of any proceeding.

535. No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has been occasioned thereby.

If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge shall be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

536. If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

537. Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

of any error, omission or irregularity in the complaint, summons, warrant, charge, judgment or

Findings or sentences when reversible by reason of error or omission in charge or other proceedings.

Trial by jury of offence triable with assessors.

Trial with assessors of offence triable by jury.

Proceedings in wrong place.

When irregular commitments may be validated.

other proceedings before or during trial or in any inquiry or other proceeding under this Code, or

of the want of any sanction required by section 195, or

of the omission to revise any list of jurors or assessors in accordance with section 324, or

of any misdirection in any charge to a jury; unless such error, omission, irregularity, want or misdirection has occasioned a failure of justice.

538. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto.

Distress not illegal nor dower a trespasser for defect or want of form in proceedings.

CHAPTER XLVI.

MISCELLANEOUS.

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn, may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in Chancery in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

541. Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

542. Notwithstanding anything contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time

to be therein named, to the Magistrate for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor General in Council, any Criminal Court may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

545. Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may when passing judgment order the whole or any part of the fine recovered to be applied—

(a) in defraying expenses properly incurred in the prosecution;

(b) in compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the Court, recoverable by civil suit.

If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

546. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

547. Any money (other than a fine) payable by virtue of any order made under this Code shall be recoverable as if it were a fine.

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury, or of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished therewith: Provided that he pay for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Miscellaneous.

Ben. Reg. XX,
1825.

549. The Governor General in Council may make rules, consistent with this Code and the Army Act, 1881, or any similar law for the time being in force, as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies or by Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act, 1881, section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

550. Police-officers superior in rank to an officer in charge of a Police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

551. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

552. Whenever any person causes a Police-officer to arrest another person in a Presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested for his loss of time and expenses in the matter, as the Magistrate thinks fit.

In such cases, if more persons than one are arrested or complained against, the Magistrate may in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

553. With the previous sanction of the Governor General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time

to time, make rules for the inspection of the records of subordinate Courts.

Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,

(a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(c) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and

(d) make rules for regulating the execution of warrants issued under this Code for the levy of fines;

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

All rules made under this section shall be published in the local official Gazette.

554. Subject to the power conferred by section 553, and by the twenty-fourth and twenty-fifth of Victoria, chapter 101, section 15, the forms set forth in the fifth schedule with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

555. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed to be a party or personally interested, within the meaning of this section, to or in any case, merely because he is a Municipal Commissioner.

556. The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than the High Courts established by Royal Charter.

557. All powers conferred by this Code on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

558. The provisions of this Code shall apply, so far as may be, to all cases pending in any Criminal Court when this Code comes into force.

SCHEDULE I.
ENACTMENTS REPEALED.

(a).—*Statute.*

Year, reign and chapter.	Title.	Extent of repeal.
13 Geo. III, chapter 63	An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe.	Section 38.

(b).—*Acts of the Governor General in Council.*

Number and year.	Subject.	Extent of repeal.
XXIII of 1849	Execution of process	So much as has not been repealed.
XLV of 1860	Penal Code	The illustrations to section 214.
V of 1861	Police Act	Section 6 and the last nine words of section 24. Section 35, down to and including the words "Provided that."
XVIII of 1862	Criminal Procedure, Supreme Courts	So much as has not been repealed.
VI of 1864	Whipping	Section 7.
II of 1869	Justices of the Peace	So much as has not been repealed.
XXII of 1870	Application to European British subjects of Acts conferring summary jurisdiction.	So much as has not been repealed.
IV of 1872	Panjáb Laws	So far as it relates to Bengal Regulation XX of 1825.
X of 1872	The Code of Criminal Procedure	So much as has not been repealed.
XI of 1874	Amending the Code of Criminal Procedure	The whole.
XV of 1874	Laws Local Extent	So far as it relates to Bengal Regulation XX of 1825.
X of 1875	High Courts' Criminal Procedure	The whole Act, except section 144 and so much of section 146 as relates to informations.

SCHEDULE I—*continued.*ENACTMENTS REPEALED—(*continued.*)(b).—*Acts of the Governor General in Council,—continued.*

Number and year.	Subject.	Extent of repeal.
XX of 1875 ...	Central Provinces Laws ...	So far as it relates to Bengal Regulation XX of 1825.
XVIII of 1876 ...	Oudh Laws ...	Ditto.
IV of 1877 ...	Presidency Magistrates ...	The whole Act except section 57.
XXI of 1879 ...	Extradition ...	Chapter III.
X of 1881 ...	Coroners ...	Sections 8 and 9.

(c).—*Regulations.*

Number and year.	Subject.	Extent of repeal.
Bengal Regulation XX of 1825.	Jurisdiction of Courts Martial ...	So much as has not been repealed.
III of 1872 ...	Santhál Parganas Settlement ...	So far as it relates to Act X of 1872.
IX of 1874 ...	Arakan Hills District Laws ...	So far as it relates to Acts II of 1869, X of 1872 and XI of 1874.
III of 1877 ...	Ajmer Laws ...	So far as it relates to Bengal Regulation XX of 1825.

(d).—*Act of the Governor of Fort St. George in Council.*

Number and year.	Subject.	Extent of repeal.
VIII of 1867 ...	Police ...	Section 9.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

EXPLANATORY NOTE.—The entries in the second and seventh columns of this schedule, headed respectively “Offence” and “Punishment under the Indian Penal Code,” are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies to the police in the towns of Calcutta and Bombay.

CHAPTER V.—ABETMENT.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	The same punishment as for the offence intended to be abetted.	Ditto.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto	..	Ditto	...	Ditto	...	Ditto	...	The same punishment as for the offence committed.	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto	...	Ditto	...	According to the offence abetted is bailable or not.	...	Ditto	...	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.

SCHEDULE II—continued.
CHAPTER V.—ABETMENT—(concluded).

Section	2	3	4	5	6	7	8
	Whether the offence is committed by the public, or by more than ten persons.	Whether the public servant conceals the offence, or by more than ten persons.	Whether a warrant can be issued against the offender in the first instance.	Whether the offence is bailable or not.	Whether the offence is compoundable or not.	Punishment under the Indian Penal Code.	By what Court is the offence triable.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Abetting the commission of an offence by the public, or by more than ten persons.	According to the provisions of the Indian Penal Code, a warrant may be issued against the offender in the first instance.	According to the provisions of the Indian Penal Code, the offence is bailable or not.	According to the provisions of the Indian Penal Code, the offence is compoundable or not.	Imprisonment of either description for 3 years, or fine, or both.	The Court by which the offence abetted is triable.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto	Ditto	According to the provisions of the Indian Penal Code, the offence is bailable or not.	Ditto	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation for life.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years.	Ditto.

If the offence be not committed ...	Ditto	...	Ditto	According as the offence abetted is bailable or not.	Ditto	...	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120 Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto	...	Ditto	Ditto	Ditto	...	Ditto	Ditto.
If the offence be not committed...	Ditto	...	Ditto	Ditto	Ditto	...	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

121 Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not act without warrant.	...	Warrant	Not bailable	...	Not comp. and able.	Death, or transportation for life, and forfeiture of property.	Court of Session.
121A Conspiring to commit certain offences against the State.	Ditto	...	Ditto	Ditto	...	Ditto	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	Ditto.
122 Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	...	Ditto	Ditto	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto.
123 Concealing with intent to facilitate a design to wage war.	Ditto	...	Ditto	Ditto	...	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

SCHEDULE II—continued.

CHAPTER VI.—OFFENCES AGAINST THE STATE—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
124A	Exciting, or attempting to excite, disaffection.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Simple imprisonment for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	...	Not bailable.	...	Not compoundable.	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	...	Ditto	...	Ditto	...	Death, or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.

SCHEDULE II—continued.

CHAPTER VII—OFFENCES RELATING TO THE ARMY AND NAVY—(concluded).

1 Section.	2 Offence	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily be issued in the first instance	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
135	Abetment of the desertion of an officer, soldier or sailor.	May arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Ditto	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY.

	Being member of an unlawful assembly.	May arrest without warrant.	Summons	Bailable	Not punishable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
143							
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
148	Rioting, armed with a deadly weapon.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto	The same as for the offence	The Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Ditto	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.

SCHEDULE II—continued.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—(concluded).

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto ...	Warrant ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed ...	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees ...	Presidency Magistrate or Magistrate of the first or second class.

155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	...	Ditto	...	Ditto	...	Fine	...	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine, or both.	...	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
159	Or to go armed	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	...	Ditto.
160	Committing affray	Shall not arrest without warrant.	...	Summons	...	Ditto	...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	...	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	...	Summons	...	Bailable	...	Not compoundable.	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
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SCHEDULE II—continued.
CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.

167	Public servant framing an incorrect document with intent to cause injury.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant ... May arrest without warrant.	...	...	Warrant	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	...	Summons	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.									
172	Abseonding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	...	Summons	...	Bailable	...	Not compoundable.	Any Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

SCHEDULE II—continued.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons is all ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether com- poundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a pro- clamation.	Shall not arrest without war- rant.	Summons ...	Bailable ...	Not com- poundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Mag- istrate or Mag- istrate of the first or second class.
	If summons, &c., require attend- ance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to at- tend at a certain place in person or by agent, or departing there- from without authority.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal at- tendance, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
176	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If the notice or information required respects the commission of an offence, &c.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description or 2 years, or fine, or both.	Ditto.

SCHEDULE II—continued.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—continued.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court tried.
178	Refusing oath when duly required to take oath by a public servant.	Shall not arrest without war- rant.	Summons ..	Bailable ..	Not com- poundable.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Any Court in which the of- fence is com- mitted, subject to the provi- sions of Chap- ter XXV, or, if not commit- ted in a Court, a Presidency Magistrate or Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
191	Knowingly stating to a public ser- vant on oath as true that which is false.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either de- scription for 3 years and fine.	Court of Ses- sion, Presiden- cy Magistrate or Magistrate of the first class.

182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person	Ditto	...	Summons	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Buying by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations mentioned thereby.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Willfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

SCHEDULE II—continued.

CHAPTER X.—CONTENTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
189	If such disobedience causes danger to human life, health or safety, &c.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
190	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Count of Session, Presidency Magistrate or Magistrate of the first class.
193	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.

194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	...	Ditto	...	Not bailable ...	Ditto	...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto	...	Ditto	...	Ditto	Ditto	...	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for seven years or upwards.	Ditto	...	Ditto	...	Ditto	Ditto	...	The same as for the offence ...	Ditto.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	...	Ditto	...	According as the offence of giving such evidence is bailable or not.	Ditto	...	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	...	Ditto	...	Bailable	Ditto	...	The same as for giving false evidence.	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto	...	Ditto	...	Ditto	Ditto	...	Ditto	Ditto.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	...	Ditto	...	Ditto	Ditto	...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	...	Ditto	...	Ditto	Ditto	...	Ditto	Ditto.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether com- poundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touch- ing it to screen the offender, if a capital offence.	Shall not arrest without war- rant.	Warrant ...	Bailable ...	Not com- poundable.	Imprisonment of either de- scription for 7 years and fine.	Court of Session.
	If punishable with transportation for life or imprisonment for ten years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either de- scription for 3 years and fine.	Court of Ses- sion, Presidency Magistrate or Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Mag- istrate or Magistrate of the first class, or Court by which the off- ence is triable.
202	Intentional omission to give infor- mation of an offence by a person legally bound to inform.	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either de- scription for 6 months, or fine, or both.	Presidency Mag- istrate or Mag- istrate of the first or second class.

203	Giving false information respecting an offence committed.	Ditto	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Presidency Magistrate or Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session. Presidency Magistrate or Magistrate of the first class.
206	Fraudulent removal or concealment &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years and fine.	Ditto.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1 Section	2 Offence.	3 Whether the police may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offence charged is capital, or punishable with transportation for life, or with imprisonment for a term exceeding 7 years	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.

If punishable with imprisonment for 1 year and not for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
213 Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
If punishable with transportation for life or with imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
If with imprisonment for less than 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
214 Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
If punishable with transportation for life or with imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1 Section.	2 Offence	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If with imprisonment for less than 10 years.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
215	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
216	Harboring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	Ditto.

	If with imprisonment for 1 year, and not for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	...	Summons	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, with or without fine.	Ditto.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If punishable with transportation for life, or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.

	If under sentence of imprisonment for less than 10 years; or lawfully committed to custody.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto	...	Summons	...	Ditto	...	Ditto	...	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If charged with a capital offence...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(concluded).

1 Section	2 Offence	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether comm- poundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If under sentence of death ...	May arrest with- out warrant.	Warrant ...	Not bailable ...	Not com- poundable.	Transportation for life, or im- prisonment of either de- scription for 10 years, and fine.	Court of Ses- sion.
225A	Escape, or attempt to escape, from custody for failing to furnish se- curity for good behaviour.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either de- scription for one year, or fine, or both.	Presidency Mag- istrate or Mag- istrate of the first or second class.
226	Unlawful return from transport- ation ...	Ditto	Ditto	Not bailable ...	Ditto	Transportation for life, and fine and rigorous imprison- ment for 3 years before transportation.	Court of Ses- sion.
227	Violation of condition of remission of punishment.	Shall not arrest without war- rant.	Summons	Ditto	Ditto	Punishment of original sen- tence, or, if part of the punishment has been under- gone, the residue.	The Court by which the ori- ginal offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto	Ditto	Bailable	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the of- fence is com- mitted, subject to the provi- sions of Chap- ter XXXV.

229	Personation of a juror or assessor..	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 2 years, or fine, or both.	Presidency Mag- istrate or Mag- istrate of the first class.
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CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeit- ing, coin.	May arrest without war- rant.	...	Warrant	...	Not bailable ...	Not com- poundable.	Imprisonment of either de- scription for 7 years and fine.	Court of Ses- sion.
232	Counterfeiting, or performing any part of the process of counterfeit- ing, the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or im- prisonment of either descrip- tion for 10 years, and fine.	Ditto.
233	Making, buying or selling instru- ment for the purpose of coun- terfeiting coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 3 years and fine.	Court of Ses- sion. Presidency Magistrate or Magistrate of the first class.
234	Making, buying or selling instru- ment for the purpose of coun- terfeiting the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 7 years and fine.	Court of Ses- sion.
235	Possession of instrument or mate- rial for the purpose of using the same for counterfeiting coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 3 years and fine.	Court of Ses- sion, Presidency Magistrate or Magistrate of the first class.
	If Queen's coin ...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 10 years and fine.	Court of Session.

SCHEDULE II—continued.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(continued).

1 Section	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
236	Abetting in British India the counterfeiting out of British India of coin.	May arrest without warrant.	Warrant ...	Not bailable.	Not compoundable.	The punishment provided for abetting the counterfeiting of such coin within British India.	Court of Session.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
240	The same with respect to the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.

SCHEDULE II—continued.
CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(concluded)

1	2	3	4	5	6	7	8
Section	Offence	Whether the offender may be arrested without warrant or whether a warrant is necessary.	Whether a warrant is necessary.	Whether the offender is liable for arrest.	Whether the offender is liable for imprisonment.	Punishment under the Indian Penal Code.	By what Court.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	May arrest without warrant.	Warrant.	Not liable.	Not commensurable.	Imprisonment of either description for 7 years and fine.	Court of Session or Presidency Magistrate of the first class.
250	Delivery, to another of coin possessed with the knowledge that it is altered.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 5 years and fine.	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.

255	Counterfeiting a Government stamp.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
258	Sale of counterfeit Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
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270	Maliciously doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink knowing the same to be noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	...	Ditto	...	Ditto	...	Fine of 500 rupees	Ditto.

SCHEDULE II—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Any Magistrate.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first or second class.
281	Exhibition of a false light, mark or buoy.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto	Ditto	Ditto	Ditto	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.

255	Dealing with fire or any combustible matter so as to endanger human life, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Any Magistrate.
286	So dealing with any explosive substance.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
287	So dealing with any machinery.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Any Magistrate.
290	Committing a public nuisance	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
291	Continuance of nuisance after injunction to discontinue.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first or second class.
292	Sale, &c., of obscene books, &c....	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.

SCHEDULE II—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—(concluded).

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
293	Having in possession obscene book, &c., for sale or exhibition.	May arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

297	Trespassing in place of worship or sepulchre, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	...	Ditto	...	Ditto	...	Compoundable.	...	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Of offences affecting Life.

302	Murder ...	...	May arrest without warrant.	...	Not bailable ...	Not comm-poundable.	Death, or transportation for life, and fine.	...	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto	...	Ditto	...	Ditto	Death	...	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto	...	Ditto	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	...	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 10 years, or fine, or both.	...	Ditto.
304A	Causing death by rash or negligent act.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for two years, or fine, or both.	...	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of offences affecting Life—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant on a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
305	Abetment of suicide committed by a mad, or insane or drunken person, or an idiot, or a person intoxicated.	May arrest without warrant	Warrant ...	Not bailable ..	Not compoundable.	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.
306	Abetting the commission of suicide	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto	Ditto	Ditto	Ditto	Death, or as above	Ditto.
308	Attempt to commit culpable homicide.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one year or fine or both.	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug	Ditto	Ditto	Not bailable ...	Ditto	Transportation for life and fine.	Court of Session.

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage ...	...	Shall not arrest without warrant.	Warrant	...	Bailable	...	Not com- poundable.	Imprisonment of either de- scription for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 7 years and fine.	Ditto.
313	Causing miscarriage without wo- man's consent.		Ditto	...	Ditto	...	Not bailable	...	Transportation for life, or im- prisonment of either de- scription for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 10 years and fine.	Ditto.
	If act done without woman's consent.		Ditto	...	Ditto	...	Ditto	...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 10 years and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent or person hav- ing care of it, with intention of wholly abandoning it.		May arrest with- out warrant.	Ditto	...	Bailable	...	Ditto	Imprisonment of either de- scription for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret dis- posal of dead body.		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 2 years, or fine, or both.	Court of Ses- sion, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).

Of Hurt.

1 Section.	2 Offence.	3 Whether the police may arrest without or without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
323	Voluntarily causing hurt	Shall not arrest without warrant.	Summons	Bailable	Compoundable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto	Ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.

328	Administering stupefying drug with intent to cause hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	...	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for 7 years and fine.	...	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	...	Ditto	...	Not bailable	...	Imprisonment of either description for 10 years and fine.	...	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for 3 years, or fine, or both.	...	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	...	Ditto	...	Not bailable	...	Imprisonment of either description for 10 years and fine.	...	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	...	Summons	...	Bailable	...	Compoundable.	...	Any Magistrate.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).

Of Hurt—(concluded).

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of Wrongful Restraint and Wrongful Confinement.

341	Wrongfully restraining any person.	May arrest without warrant.	Summons	Bailable	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
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342	Wrongfully confining any person	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 1 year, or fine of 1,000 rupees, or both.	Presidency Mag- istrate or Mag- istrate of the first or second class.
343	Wrongfully confining for three or more days.	Ditto	...	Ditto	...	Not com- poundable.	...	Imprisonment of either de- scription for 2 years and fine.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 3 years and fine.	Court of Ses- sion, Presidency Magistrate or Magistrate of the first or second class.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without war- rant.	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 2 years, in ad- dition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret ...	May arrest with- out warrant.	...	Ditto	...	Ditto	...	Ditto	Ditto.
347	Wrongful confinement for the pur- pose of extorting property, or constraining to an illegal act, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either de- scription for 3 years and fine.	Ditto.
348	Wrongful confinement for the pur- pose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Ses- sion, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of Criminal Force and Assault.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Compoundable.	Ditto ...	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Ditto ...	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

358 Assault or use of criminal force on grave and sudden provocation. Shall not arrest without warrant. Summons ... Ditto ... Compoundable. Simple imprisonment for 1 month, or fine of 200 rupees, or both. Ditto.

Of Kidnapping, Abduction, Slavery and Forced Labour.

363	Kidnapping	...	...	May arrest without warrant	Warrant	...	Not bailable	...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abducting in order to murder.			Ditto	Ditto	...	Ditto	...	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.			Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her detention, &c.			Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.			Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto.
368	Concealing or keeping in confinement a kidnapped person.			Ditto	Ditto	...	Ditto	...	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.			Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

SCHEDULE II—continued.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of Kidnaping, i.e., Abduction, Slavery and False Imprisonment—(concluded).

1	2	3	4	5	6	7	8
Section.	Offence.	Whether offence is a misdemeanour or a felony.	Whether offence is a misdemeanour or a felony.	Whether offence is a misdemeanour or a felony.	Whether offence is a misdemeanour or a felony.	Punishment under the Indian Penal Code.	By what Court triable.
370	Buying or disposing of any person as a slave.	Should not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
372	Selling or letting to hire a minor for purposes of prostitution, &c.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour	Ditto	Ditto	Bailable	Compoundable	Imprisonment of either description for 1 year, or fine, or both	Any Magistrate.
<i>Of Rape.</i>							
376	Rape	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

Of Unnatural Offences.

377 Unnatural offences	May act with- out warrant.	Not bailable	Not com- poundable.	Trans-por-tation for life, or im- prisonment of either descrip- tion for 10 years, and fine.	Court of Session.
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CHAPTER XVII.—OFFENCES AGAINST PROPERTY.

Of Theft.

379 Theft	... May act with- out warrant	Not bailable	Not com- poundable.	Imprisonment of either de- scription for 5 years, or fine, or both.	Any Magistrate.
380 Theft on a building, tent or vessel	Ditto	Ditto	Ditto	Imprisonment of either de- scription for 7 years and fine	Ditto.
381 Theft by clerk or servant of prop- erty in possession of master or employer.	Ditto	Ditto	Ditto	Ditto ...	Court of Ses- sion, Presidency Magistrate or Magistrate of the first or second class.
382 Theft, preparation having been made for causing death, or hurt, or restraint or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retreating after committing it, or to retaining property taken by it.	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years and fine.	Court of Session.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).

Of Extortion.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
384	Extortion	...	...	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto	Ditto	Ditto	Ditto	Transportation for life	Ditto.

389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence be an unnatural offence.	Ditto	..	Ditto	...	Ditto	...	Transportation for life	Ditto.
of the first class.									
392	Robbery	...	...	Not liable ..	Not com- poundable.	Rigorous imprisonment for 10 years and fine.	Count of Ses- sion, Presidency Magistrate or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto	...	Ditto	...	Rigorous imprisonment for 11 years and fine.	Ditto.		
393	Attempt to commit robbery	Ditto	...	Ditto	...	Rigorous imprisonment for 7 years and fine.	Ditto.		
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto	...	Ditto	...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.		
395	Dacoity	...	...	Ditto	...	Ditto	Count of Session.
396	Murder in dacoity	...	...	Ditto	...	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto	...	Ditto	...	Rigorous imprisonment for not less than 7 years.	Ditto.		

SCHEDULE II—continued.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).

Of Robbery and Dacoity—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether punishable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	May arrest without warrant.	Warrant ...	Not bailable ...	Not punishable.	Rigorous imprisonment for not less than 7 years.	Court of Session.
399	Making preparation to commit dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not punishable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
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404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If by clerk or person employed by deceased.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.

Of Criminal Breach of Trust.											
406	Criminal breach of trust	...	May arrest without warrant.	...	Warrant	...	Not bailable	...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	...	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto	...	...	Ditto	...	Ditto	...	Ditto	...	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Criminal Breach of Trust—(concluded).

1 Section	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
409	Criminal breach of trust by public servant or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of the Receiving of Stolen Property.

	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
411	Dishonestly receiving stolen property, knowing it to be stolen.	...	...	...	...	...
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto

414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
<i>Of Cheating.</i>											
417	Cheating	...	...	Warrant	...	Bailable	...	Not compoundable.	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law, or by legal contract, to protect.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Fraudulent Deeds and Dispositions of Property.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class. Ditto.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto ...	Ditto ...	Ditto ..	Ditto ...	Ditto.

Of Mischief.

426	Mischief	Summons ...	Bailable ...	Compoundable when the only loss or damage ...	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
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427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	...	Warrant	...	Ditto	...	age caused is loss or damage to a private person. Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class. Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	* May arrest without warrant.	...	Ditto	...	Ditto	...	Not compoundable.	...	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency or Magistrate or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
431	Mischief by injury to public road, bridge, navigable river or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or seamark, or by exhibiting false lights.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.

• See Act XI of 1874, section 4.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Mischief—(concluded).

1 Section	2 Offence	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto ...	Ditto ...	Ditto	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto ...	Ditto ...	Ditto	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
<i>(If Criminal Trespass)</i>								
447	Criminal trespass	May arrest without warrant.	Bailable	...	Compoundable.	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Not bailable	...	Not compoundable.	...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Bailable	...	Ditto	...	Imprisonment of either description for 2 years and fine	Any Magistrate.
	If the offence is theft	Ditto	Not bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
452	House-trespass, having made preparation for causing hurt, assault &c.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(concluded).
Of Criminal Trespass—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
453	Lurking house-trespass or house-breaking.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 2 years and fine.	Presidency Magistrate or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If the offence is theft ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first class.
456	Lurking house-trespass or house-breaking by night.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
	If the offence is theft	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
465	Forgery	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session.
466	Forgery of a record of a Court of Justice or of a Register of births, &c, kept by a public servant.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, &c.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Ditto.
468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto	Ditto	Ditto	Ditto	Punishment for forgery	Ditto.

	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto	...	Not bailable ...	Ditto	...	Ditto	...
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.	...
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, and fine.	Ditto.	...
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.	...
475	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	Ditto	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.	...
476	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.	...

SCHEDULE II—continued.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest with- out warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
476	Counterfeiting a device or mark used for authenticating docu- ments other than those described in section 467 of the Indian Penal Code, or possessing coun- terfeit marked material.	Shall not arrest without war- rant.	Warrant ...	Not bailable ...	Not com- poundable.	Imprisonment of either de- scription for 7 years, and fine.	Court of Session.
477	Fraudulently destroying or defac- ing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or im- prisonment of either de- scription for 7 years, and fine.	Ditto.

Of Trade and Property-Marks.

482	Using a false trade or property- mark with intent to deceive or injure any person.	Shall not arrest without war- rant.	Warrant ...	Bailable ...	Not com- poundable.	Imprisonment of either de- scription for 1 year, or fine, or both.	Presidency Mag- istrate or Mag- istrate of the first or second class.
483	Counterfeiting a trade or property- mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either de- scription for 2 years, or fine, or both.	Ditto.

434	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	...	Summons	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.
CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.

494	Marrying again during the lifetime of a husband or wife.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto	...	Ditto	...	Bailable	...	Compoundable.	...	Imprisonment of either description for 5 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XXI.—DEFAMATION.

500	Defamation	...	...	...	...	Warrant	...	Bailable	...	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.

SCHEDULE II—continued.
CHAPTER XXI.—DEFAMATION—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

		Shall not arrest without warrant.	Warrant	Bailable	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
504	Insult intended to provoke a breach of the peace.	...	...	Bailable	...	...	...
505	False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace.	Ditto	Ditto	Not bailable	Not compoundable.	Ditto	Presidency Magistrate or Magistrate of the first or second class.
506	Criminal intimidation	Ditto	Ditto	Bailable	Compoundable.	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

597	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
598	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
599	Uttering any word or making any gesture intended to insult the modesty of a woman, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
600	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.

611	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.
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SCHEDULE II—concluded.

OFFENCES AGAINST OTHER LAWS.

1 Section.	2 Offence.	3 Whether the police may arrest with- out warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether com- poundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If punishable with death, trans- portation or imprisonment for seven years or upwards.	May arrest without war- rant.	Warrant ...	Not bailable ...	Not com- poundable.	.....	According to the provi- sions of sec- tion 29 of this Code.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	.....
				Except in cases under the In- dian Arms Act, 1875, section 19, which shall be bailable.			
	If punishable with imprisonment for less than three years.	Shall not ar- rest without warrant.	Summons ...	Bailable ...	Ditto ...	.....
	If punishable with fine only ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	.....

SCHEDULE III.

ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

I.—Ordinary Powers of a Magistrate of the Third Class.

- (1) Power to arrest, or direct the arrest in his presence of, an offender ; section 65.
- (2) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant ; sections 83, 84 & 86.
- (3) Power to issue proclamations in cases judicially before him, section 87.
- (4) Power to attach and sell property in cases judicially before him, section 88.
- (5) Power to restore attached property, section 89.
- (6) Power to issue search-warrant, section 96.
- (7) Power to endorse a search-warrant and order delivery of thing found, section 99.
- (8) Power to record statements or confessions during a police investigation, section 164.
- (9) Power to authorize detention of a person during a police-investigation, section 167.
- (10) Power to detain an offender found in Court, section 351.
- (11) Power to sell perishable property of a suspected character, section 525.

II.—Ordinary Powers of a Magistrate of the Second Class.

- (1) The ordinary powers of a Magistrate of the third class.
- (2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

III.—Ordinary Powers of a Magistrate of the First Class.

- (1) The ordinary powers of a Magistrate of the second class.
- (2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.
- (3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.
- (4) Power to require security to keep the peace, section 107.
- (5) Power to require security for good behaviour, section 109.
- (6) Power to make orders, &c., in possession cases ; sections 145, 146 and 147.
- (7) Power to commit for trial, section 206.
- (8) Power to stop proceedings when no complainant, section 219.
- (9) Power to make orders of maintenance, sections 488 and 489.

IV.—Ordinary Powers of a Sub-divisional Magistrate.

- (1) The ordinary powers of a Magistrate of the first class.
- (2) Power to direct warrants to landholders, section 78.
- (3) Power to make orders as to local nuisances, section 133.
- (4) Power to make orders prohibiting repetitions of nuisances, section 143.
- (5) Power to make orders under section 144.
- (6) Power to hold inquests, section 174.
- (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
- (8) Power to entertain complaints, section 191.
- (9) Power to receive police-reports, section 191.
- (10) Power to entertain cases without complaint, section 191.
- (11) Power to transfer cases to a Subordinate Magistrate, section 192.
- (12) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.
- (13) Power to sell property alleged or suspected to have been stolen, &c. section 524.
- (14) Power to withdraw cases other than appeals, and to try or refer them for trial : section 529.

V.—Ordinary Powers of a District Magistrate.

- (1) The ordinary powers of a Sub-divisional Magistrate, being a Magistrate of the first class.
- (2) Power to issue search-warrants for documents in custody of Postal or Telegraph authorities, section 96.
- (3) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.
- (4) Power to cancel bond for keeping the peace, section 125.
- (5) Power to try summarily, section 260.
- (6) Power to quash convictions in certain cases, section 350.
- (7) Power to hear appeals from orders requiring security for good behaviour, section 406.
- (8) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.
- (9) Power to call for records, section 435.
- (10) Power to revise orders passed under section 514 ; section 515.

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SCHEDULE IV.

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH A MAGISTRATE OF THE FIRST CLASS MAY BE INVESTED

By THE LOCAL GOVERNMENT

- (1) Power to require security for good behaviour, section 110 :
- (2) Power to make orders as to local nuisances, section 133 :
- (3) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (4) Power to make orders under section 144 :
- (5) Power to hold inquests, section 174 :
- (6) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 :
- (7) Power to take cognizance of offences upon complaint, section 191 :
- (8) Power to take cognizance of offences upon police reports, section 191 :
- (9) Power to take cognizance of offences upon information, section 191 :
- (10) Power to try summarily, section 260 :
- (11) Power to hear appeals from convictions by Magistrates of the second and third classes, section 107 :
- (12) Power to sell property alleged or suspected to have been stolen, &c., section 524.

By THE DISTRICT MAGISTRATE

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (4) Power to take cognizance of offences upon complaint, section 191 :
- (5) Power to take cognizance of offences upon police reports, section 191 :
- (6) Power to transfer cases, section 192.

By THE LOCAL GOVERNMENT

- (1) Power to pass sentences of whipping, section 32 :
- (2) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (3) Power to make orders under section 144 :
- (4) Power to hold inquests, section 174 :
- (5) Power to take cognizance of offences upon complaint, section 191 :
- (6) Power to take cognizance of offences upon police reports, section 191 :
- (7) Power to take cognizance of offences upon information, section 191 :
- (8) Power to commit for trial, section 206.

POWERS WITH WHICH A MAGISTRATE OF THE SECOND CLASS MAY BE INVESTED

By THE DISTRICT MAGISTRATE

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (4) Power to take cognizance of offences upon complaint, section 191 :
- (5) Power to take cognizance of offences upon police reports, section 191.

SCHEDULE IV—concluded.

POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED	BY THE LOCAL GOVERNMENT	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (1) Power to take cognizance of offences upon complaint, section 191 : (5) Power to take cognizance of offences upon police reports, section 191 : (6) Power to commit for trial, section 206.
	BY THE DISTRICT MAGISTRATE	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (1) Power to hold inquests, section 174 : (1) Power to take cognizance of offences upon complaint, section 191 : (5) Power to take cognizance of offences upon police reports, section 191.
POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED	BY THE LOCAL GOVERNMENT	Power to call for records, section 435.

SCHEDULE V.

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON

(See section 68.)

To

of

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader, *as the case may be*), before the (*Magistrate*) of , on the

day of

Herein fail not.

Dated this day of

, 18 .

(Seal.)

(Signature.)

II.—WARRANT OF ARREST.

(See section 75.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of

, 18 .

(Seal.)

(Signature.)

(See section 76.)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of , with one surety in the sum of (or two sureties each in the sum of), to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of

, 18 .

(Signature.)

FORMS.

SCHEDULE V—continued.

III.—BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT.

(See section 86.)

I, (name), of _____, being brought before the District Magistrate of _____
 (or, as the case may be) under a warrant issued to compel my appearance to answer to the
 charge of _____, do hereby bind myself to attend in the Court of _____
 on the _____ day of _____ next to answer to the said charge, and to continue
 so to attend until otherwise directed by the Court; and, in case of my making default herein,
 I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees _____.

Dated this _____ day of _____, 18 ____.

(Signature.)

I do hereby declare myself surety for the abovenamed _____ of _____, that he shall
 attend before _____ in the Court of _____ on the _____ day of _____
 next to answer to the charge on which he has been arrested, and shall continue so to attend
 until otherwise directed by the Court; and, in case of his making default therein, I hereby
 bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees _____.

Dated this _____ day of _____, 18 ____.

(Signature.)

IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED.

(See section 87.)

WHEREAS complaint has been made before me that (name, description and address) has
 committed (or is suspected to have committed) the offence of _____, punishable under section
 _____ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon
 issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction
 that the said (name) has absconded (or is concealing himself to avoid the service of the said
 warrant);

Proclamation is hereby made that the said _____ of _____ is required to
 appear at (place) before this Court (or before me) to answer the said complaint within
 _____ days from this date.

Dated this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(See section 87.)

WHEREAS complaint has been made before me that (name, description and address) has
 committed (or is suspected to have committed) the offence of (mention the offence concisely)
 and a warrant has been issued to compel the attendance of (name, description and address
 of the witness) before this Court to be examined touching the matter of the said com-
 plaint; and whereas it has been returned to the said warrant that the said (name of witness)
 cannot be served, and it has been shown to my satisfaction that he has absconded (or is con-
 cealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (name) is required to appear at (place) before
 the Court of _____ on the _____ day of _____ next at _____ o'clock, to be examined
 touching _____, the offence complained of.

Dated this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(See section 88.)

To the Police-officer in charge of the Police-station at _____

WHEREAS a warrant has been duly issued to compel the attendance of (name, description and
 address) to testify concerning a complaint pending before this Court, and it has been returned
 to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction
 that he has absconded (or is concealing himself to avoid the service of the said warrant); and
 thereupon a Proclamation was duly issued and published requiring the said _____ to
 appear and give evidence at the time and place mentioned therein, and he has failed to appear;

This is to authorize and require you to attach by seizure the moveable property belonging
 to the said _____ to the value of rupees _____ which
 you may find within the District of _____ and to hold the said property under attachment

SCHEDULE V—continued.

Forms

pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .
(Seal.)

(Signature.)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(See section 88.)

To (name and designation of the person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing himself to avoid the service of the said warrant), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (or town) of , in the District of , viz., , and an order has been made for the attachment thereof;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .
(Seal.)

(Signature.)

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(See section 88.)

To the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing himself to avoid the service of the said warrant), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days, but he has not appeared; and whereas the said is possessed of certain land paying revenue to Government in the village (or town) of in the District of ;

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of , 18 .
(Seal.)

(Signature.)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(See section 90.)

To (name and designation of the Police-officer or other person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that of has (or is suspected to have) committed the offence of (mention the offence concisely), and it appears likely that (name and description of witness) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorize and require you to arrest the said (name) and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.)

(Signature.)

SCHEDULE V—continued.

(See section 96.)

WHEREAS information has been laid (or complaint has been made) before me of the commission (or suspected commission) of the offence of (mention the offence concisely), and it has been made to appear to me that the production of (specify the thing clearly) is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence);

This is to authorize and require you to search for the said *(the thing specified)* in the *(describe the house or place, or part thereof, to which the search is to be confined)*, and, if found, to produce the same forthwith before this Court; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

(See section 98.)

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (describe the house or other place) is used as a place for the deposit (or sale) of stolen property (or, if for either of the other purposes expressed in the section, state the purpose in the words of the section);

This is to authorize and require you to enter the said house (or other place) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (or other place, or, if the search is to be confined to a part, specify the part clearly) and to seize and take possession of any property (or documents, or stamps, or seals, or coins, as the case may be)—[Add (when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps, or false seals, or counterfeit coin (as the case may be)] and forthwith to bring before this Court such of the said things as may be taken possession of; returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

[illegible]

(See section 106.)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to keep the peace for the term of _____, I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and, in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees _____.

Dated this day of , 18 .

(Signature.)

(See sections 109 and 110.)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects for the term of (state the period), I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees .

Dated this _____ day of _____, 18 ____.

(Where a bond with surties is to be executed, add) We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees .

Dated this _____ day of _____, 18 _____.
(Signature.)

SCHEDULE V—continued.

FORMS.

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(See section 114.)

To _____ of _____

WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*) and that you are likely to commit a breach of the peace (*or by which not a breach of the peace will probably be occasioned*), you are hereby required to attend in person (*or by a duly authorized agent*) at the Office of the Magistrate of _____ on the day of _____, 18____, at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees _____ [*when sureties are required, add* and also to give security by the bond of one (*or two, as the case may be*) surety (*or sureties*) in the sum of rupees (*each, if more than one*)], that you will keep the peace for the term of _____.

Given under my hand and the seal of the Court, this _____ day of _____, 18____.

(Seal.) (Signature.)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(See section 123.)

To the Superintendent (*or Keeper*) of the Jail at _____

WHEREAS (*name and address*) appeared before me in person (*or by his authorized agent*) on the day of _____ in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees _____ with one surety (*or a bond with two sureties each in rupees* _____), that he the said (*name*) would keep the peace for the period of _____ months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order;

This is to authorize and require you the said Superintendent (*or Keeper*) to receive the said (*name*) into your custody together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply with the said order by himself and his surety (*or sureties*) entering into the said bond, in which case the same shall be received, and the said (*name*) released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18____.

(Seal.) (Signature.)

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(See section 123.)

To the Superintendent (*or Keeper*) of the Jail at _____

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the District of _____ having no ostensible means of subsistence (*or, and that he is unable to give any satisfactory account of himself*);

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded from which it appears that he is an habitual robber (*or house-breaker, &c., as the case may be*);

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or two or more sureties, as the case may be*), himself for rupees _____, and the said surety (*or each of the said sureties*) for rupees _____, and the said (*name*) has failed to comply with the said order, and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorize and require you the said Superintendent (*or Keeper*) to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless he shall in the meantime comply

FORMS.

SCHEDULE V—continued.

with the said order by himself and his surety (or sureties) entering into the said bond, in which case the same shall be received and the said (name) released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(Seal.) _____ (Signature.)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(See sections 123 and 124.)

To the Superintendent (or Keeper) of the Jail at _____ (or other officer in whose custody the person is).

WHEREAS (name and description of prisoner) was committed to your custody under warrant of this Court, dated the _____ day of _____, and has since duly given security under section _____ of the Code of Criminal Procedure,

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorize and require you forthwith to discharge the said (name) from your custody, unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(Seal.) _____ (Signature.)

XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

(See section 133.)

To (name, description and address).

WHEREAS it has been made to appear to me that you have caused an obstruction (or nuisance) to persons using the public roadway (or other public place), which, &c. (describe the road or public place), by, &c. (state what it is that causes the obstruction or nuisance), and that such obstruction (or nuisance) still exists;

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (state the particular trade or occupation and the place where it is carried on), and that the same is injurious to the public health (or comfort) by reason (state briefly in what manner the injurious effects are caused), and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner (or are in possession of or have the control over) a certain tank (or well or excavation) adjacent to the public way (describe the thoroughfare), and that the safety of the public is endangered by reason of the said tank (or well or excavation) being without a fence (or insecurely fenced);

or

WHEREAS, &c., &c. (as the case may be);

I do hereby direct and require you within (state the time allowed) to (state what is required to be done to abate the nuisance) or to appear at _____ in the _____ Court of _____ on the _____ day of _____ next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (state the time allowed) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, &c.;

or

I do hereby direct and require you within (state the time allowed) to put up a sufficient fence (state the kind of fence and the part to be fenced), or to appear, &c.

or

I do hereby direct and require you, &c., &c. (as the case may be).

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(Seal.) _____ (Signature.)

SCHEDULE V—continued.

FORMS.

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

(See section 138.)

WHEREAS on the day of , 18 , an order was issued to (name) requiring him (state the effect of the order), and whereas the said (name) has applied to me by a petition bearing date the day of for an order appointing a Jury to try whether the said recited order is reasonable and proper; I do hereby appoint (the names, &c., of the five or more Jurors) to be the Jury to try and decide the said question, and do require the said Jury to report their decision within days from the date of this order at my office at .

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(See section 140.)

To (name, description and address).

I HEREBY give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of requiring you (state substantially the requisition in the order) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (state the time allowed) on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY.

(See section 142.)

To (name, description and address).

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the day of , 18 , is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to (state plainly what is required to be done as a temporary safeguard), pending the result of the local inquiry by the Jury.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, &c., OF A NUISANCE.

(See section 143.)

To (name, description and address).

WHEREAS it has been made to appear to me that, &c. (state the proper recital, guided by Form No. XVI or Form No. XXI, as the case may be);

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, &c. (as the case may be).

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, &c.

(See section 144.)

To (name, description and address).

WHEREAS it has been made to appear to me that you are in possession (or have the management) of (describe clearly the property), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons (mention the class of persons) are about to meet and proceed in a religious procession along the public

SCHEDULE V—continued.

or

I do hereby order you not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road ;

or

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) _____ (Signature.)

(See section 145.)

I do decide and declare that he is (or they are) in possession of the said (the subject of dispute) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (or their) possession in the meantime.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) _____ (Signature.)

(See section 146.)

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between *(describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers)* concerning certain *(state concisely the subject of dispute)* situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said *(the subject of dispute)*, and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said *(the subject of dispute)* [or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid] ;

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.)

(Signature.)

(See section 1-17.)

A DISPUTE having arisen concerning the right of use of *(state concisely the subject of dispute)* situate within the limits of my jurisdiction, the possession of which land (or water) is claimed exclusively by *(describe the person or persons)*, and it appearing to me, on due inquiry into the same, that the said land (or water) has been open to the enjoyment of such use by the public *(or if by an individual or a class of persons, describe him or them)*, and *(if the use can be enjoyed throughout the year)* that the said use has been enjoyed within three months of the

SCHEDULE V—continued.

FORMS.

institution of the said inquiry (or if the use is enjoyable only at particular seasons, say "during the last of the seasons at which the same is capable of being enjoyed") ;

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (or retain) possession of the said land (or water) to the exclusion of the enjoyment of the right of use aforesaid, until he (or they) shall obtain the decree or order of a competent Court adjudging him (or them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(See section 169.)

I, (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of ,

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (or on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

I hereby declare myself (or We jointly and severally declare ourselves and each of us) surety (or sureties) for the above-said that he shall attend at , in the Court of , on the day of next (or on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (or we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(See section 170.)

I, (*name*), of (*place*), do hereby bind myself to attend at , in the Court of , at o'clock on the day of next, and then and there to prosecute (or, to prosecute and give evidence, or to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(See section 218.)

The Magistrate of hereby gives notice that he has committed one for trial at the next Sessions ; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, &c. (*state the offence as in the charge*).

Dated this day of , 18 .

(Signature.)

XXVIII.—CHARGES.

(See sections 221, 222, 223.)

(I).—CHARGES WITH ONE HEAD.

(a) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*] as follows:—

(b) That you, on or about the day of , at , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, section 121.

FORMS.

SCHEDULE V—continued.

Penal Code, and within the cognizance of the Court of Session [when the charge is framed by a Presidency Magistrate, for Court of Session substitute High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[Signature and seal of the Magistrate.]

[To be substituted for (b) :—]

(2) That you, on or about the _____ day of _____, at _____, with the intention of inducing the Honourable A. B., Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(3) That you, being a public servant in the _____ Department, directly accepted from [state the name], for another party [state the name], a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(4) That you, on or about the _____ day of _____, at _____, did [or omitted to do, as the case may be] such conduct being contrary to the provisions of Act _____, section _____, and known by you to be prejudicial to _____, and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(5) That you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in evidence that “ _____ ”, which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(6) That you, on or about the _____ day of _____, at _____, committed culpable homicide not amounting to murder, causing the death of _____, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(7) That you, on or about the _____ day of _____, at _____, abetted the commission of suicide by A. B., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(8) That you, on or about the _____ day of _____, at _____, voluntarily caused grievous hurt to _____, and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(9) That you, on or about the _____ day of _____, at _____, robbed [state the name] and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(10) That you, on or about the _____ day of _____, at _____, committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates, substitute “within my cognizance” for “within the cognizance of the Court of Session,” and in (c) omit “by the said Court.”]

(II).—CHARGES WITH TWO OR MORE HEADS.

(a) I, [name and office of Magistrate, &c.], hereby charge you [name of accused person] as follows :—

(b) First.—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Secondly.—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit, attempted to induce another person, by name A. B., to receive it as

SCHEDULE V—continued.

FORMS.

genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[Signature and seal of the Magistrate.]

[To be substituted for (b) :—]

(2) *First.*—That you, on or about the _____ day of _____, at _____, committed murder by causing the death of _____, On sections 302 and 304.

and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Secondly.—That you, on or about the _____ day of _____, at _____, by causing the death of _____, committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(3) *First.*—That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court]. On sections 379 and 382.

Secondly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Thirdly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Fourthly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(4) That you, on or about the _____ day of _____, at _____, in the course of the inquiry into _____ before _____, stated in evidence Alternative charges on section 193. that “ _____ ”, and that you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in evidence that “ _____ ”, one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates, substitute “ within my cognizance ” for “ within the cognizance of the Court of Session,” and in (c) omit “ by the said Court.”]

(III).—CHARGE FOR THEFT AFTER A PREVIOUS CONVICTION.

I (name and office of Magistrate, &c.,) hereby charge you (name of accused person) as follows :—

That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code and within the cognizance of the Court of Session [or { High Court, } as the case may be. { Magistrate, }]

And you the said (name of accused) stand further charged that you, before the committing of the said offence, that is to say, on the _____ day of _____, had been convicted by the (state Court by which conviction was had) at _____ of an offence punishable under

FORMS.

SCHEDULE V—*continued.*

Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, &c,

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(See sections 245 and 258.)

To the Superintendent (or Keeper) of the Jail at

WHEREAS on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 18 , was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (or sections) of the Indian Penal Code (or of Act), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorize and require you, the said Superintendent (or Keeper) to receive the said (*prisoner's name*) into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXX.—WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER AMENDS BY DISTRESS.

(See section 250.)

To the Superintendent (or Keeper) of the Jail at

WHEREAS (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (or vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXI.—SUMMONS TO A WITNESS.

(See sections 68 and 252.)

To

of

WHEREAS complaint has been made before me that of has (or is suspected to have) committed the offence of (*state the offence concisely, with time and place*) and it appears to me that you are likely to give material evidence for the prosecution;

SCHEDULE V—*continued.*

FORMS.

You are hereby summoned to appear before this Court on the _____ day of _____ next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

(See section 326.)

To the District Magistrate of _____

WHEREAS a Criminal Session is appointed to be held in the Court-house at _____ on the _____ day of _____ next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A. M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(Here enter the names of Jurors and Assessors.)

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

XXXIII.—SUMMONS TO ASSESSOR OR JUROR.

(See section 328.)

To (name) of (place).

PURSUANT to a precept directed to me by the Court of Session of _____ requiring your attendance as an Assessor (or a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (place) at ten o'clock in the forenoon on the _____ day of _____ next.

Given under my hand and seal of office, this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(See section 374.)

To the Superintendent (or Keeper) of the Jail at _____

WHEREAS at the Session held before me on the _____ day of _____, 18 ____, (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. _____ of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section _____ of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the _____ Court of _____;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (prisoner's name) into your custody in the said jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said _____ Court.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

FORMS.

SCHEDULE V—*continued.*

XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

(See section 381.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day of , 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death, and whereas the order of the Court of confirming the said sentence has been received by this Court;

This is to authorize and require you the said Superintendent (or Keeper) to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature)

XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

(See sections 381 and 382.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS at a Session held on the day of of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of , punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is herewith annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or, as the case may be*);

This is to authorize and require you, the said Superintendent (or Keeper), safely to keep the said (*prisoner's name*) in your custody in the said jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order.

or
if the mitigated sentence is one of imprisonment, say, after the words "custody in the said jail," "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXVII.—WARRANT TO LEVY A FINE BY DISTRESS AND SALE.

(See section 386.)

To (*name and designation of the Police-officer or other person, or persons, who is or are to execute the warrant*).

WHEREAS (*name and description of the offender*) was on the day of , 18 , convicted before me of the offence of (*mention the offence concisely*) and sentenced to pay a fine of rupees , and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the District of ; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or forthwith*), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

SCHEDULE V—continued.

FORMS

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(See section 480.)

To the Superintendent (or Keeper) of the Jail at

WHEREAS at a Court holden before me on this day (*name and description of the offender*) in the presence (or view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or in default to suffer simple imprisonment for the space of (*state the number of months or days*);

This is to authorize and require you, the Superintendent (or Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(See section 485.)

To (*name and designation of officer of Court*)

WHEREAS (*name and description*), being summoned (or brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (or certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*);

This is to authorize and require you to take the said (*name*) into custody, and him safely keep in your custody for the space of days unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(See section 488.)

To the Superintendent (or Keeper) of the Jail at

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [or his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (or himself)] and to have neglected (or refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (or child) for maintenance the monthly sum of rupees ; and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of : And thereupon an order was made adjudging him to undergo simple (or rigorous) imprisonment in the said jail for the period of ;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody in the said jail, together with this warrant, and there carry the said

FORMS.

SCHEDULE V—continued.

order into execution according to law; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XL I.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(See section 488.)

To (name and designation of the Police-officer or other person to execute the warrant).

WHEREAS an order has been duly made requiring (name) to allow to his said wife (or child) for maintenance the monthly sum of rupees , and whereas the said (name) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of ;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (name) which may be found within the district of , and if within (state the number of days or hours allowed) next after such distress the said sum shall not be paid (or forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum; returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(See sections 496 and 499.)

I, (name), of (place), being brought before the Magistrate of (as the case may be) charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

I hereby declare myself (or We jointly and severally declare ourselves and each of us) surety (or sureties) for the said (name) that he shall attend at the Court of on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and in case of his making default therein, I bind myself (or we bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(See section 500.)

To the Superintendent (or Keeper) of the Jail at (or other officer in whose custody the person is).

WHEREAS (name and description of prisoner) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (or sureties) duly executed a bond under section 499 of the Code of Criminal Procedure;

SCHEDULE V—continued.

FORMS.

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of , 18 .
(Signature.)

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(See section 514.)

To the Police-officer in charge of the Police-station at

WHEREAS (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him.

This is to authorize and require you to attach any moveable property of the said (*name*) that you may find within the District of , by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(See section 514.)

To of

WHEREAS on the day of , 18 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See section 514.)

To of

WHEREAS on the day of , 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security-bond has become forfeited;

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(See section 514.)

To

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*);

FORMS.

SCHEDULE V—continued.

This is to authorize and require you to attach any moveable property of the said (name) which you may find within the District of _____, by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(See section 514.)

To the Superintendent (or Keeper) of the Civil Jail at _____

WHEREAS (name and description of surety) has bound himself as a surety for the appearance of _____ (state the condition of the bond), and the said (name) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India; and whereas the said (name of surety) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the Civil Jail for (specify the period);

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (name) into your custody with this warrant and him safely to keep in the said Jail for the said (term of imprisonment), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(See section 514.)

To (name, description and address).

WHEREAS on the _____ day of _____, 18 ____, you entered into a bond not to commit, &c. (as in the bond), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees _____, or to show cause before me within _____ days why payment of the same should not be enforced against you.

Dated this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(See section 514.)

To (name and designation of Police-officer) at the Police-station of _____

WHEREAS (name and description) did on the _____ day of _____, 18 ____, enter into a bond for the sum of rupees _____, binding himself not to commit a breach of the peace, &c. (as in the bond), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

SCHEDULE V—continued.

FORMS.

This is to authorize and require you to attach by seizure moveable property belonging to the said (name) to the value of rupees which you may find within the District of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realize the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this
(Seal.)

day of , 18
(Signature.)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(See Section 514.)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS (name) has been given before me and duly recorded that (name and description) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas the said (name) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (name) in the Civil Jail for the period of (term of imprisonment);

This is to authorize and require you, the said Superintendent (or Keeper), of the said Civil Jail to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment); and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this
(Seal.)

day of , 18
(Signature.)

LII.—WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See Section 514.)

To the Police-officer in charge of the Police-station at

WHEREAS (name, description and address) did on the day of , 18 , give security by bond in the sum of rupees for the good behaviour of (name, &c., of the principal), and proof has been given before me and duly recorded of the commission by the said (name) of the offence of , whereby the said bond has been forfeited; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorize and require you to attach by seizure moveable property belonging to the said (name) to the value of rupees which you may find within the District of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realize the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this
(Seal.)

day of , 18
(Signature.)

LIII.—WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See Section 514.)

To the Superintendent (or Keeper) of the Civil Jail at

WHEREAS (name, description and address) did on the day of , 18 , give security by bond in the sum of rupees for the good behaviour of (name, &c., of the principal), and proof of the breach of the said bond has been given before me and duly

FORMS.

SCHEDULE V—concluded.

recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) ; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

B. J. CROTHWAITE,
Off. Secy. to the Govt of India.



The Gazette of India

EXTRAORDINARY.

Published by Authority.

CALCUTTA, FRIDAY, MARCH 10, 1882.

DEPARTMENT OF FINANCE AND COMMERCE.

NOTIFICATION.

SEPARATE REVENUE.

Salt.

Calcutta, the 10th March 1882.

No. 1449.

In exercise of the powers conferred by Section 7 of the Indian Salt Act, 1882, the Governor General in Council directs that on and after the date of this Notification the duty to be paid on salt manufactured in or imported by land into any part of British India, except Burma and that portion of the territories administered by the Lieutenant-Governor of the Punjab which lies west of the river Indus, shall be rupees two for each maund of 82½ lbs. avoirdupois weight.

2. The Governor General in Council further directs that not less than two copies of a notice, in the vernacular language of the district, stating that the salt duty has been reduced from Rs. 2-14 (or Rs. 2-8 as the case may be) to Rs. 2 per maund, shall be issued by each Local Government to every town and village within its jurisdiction to which the reduction applies, and shall also be made public in such other manner as the Local Government may deem fit.

T. O. HOPE,

Secretary to the Govt. of India.



The Gazette of India

PUBLISHED BY AUTHORITY.

No 10. } CALCUTTA, SATURDAY, MARCH 11, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

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PART I.

Government of India Notifications, Appointments, Promotions, &c.

HOME DEPARTMENT.

NOTIFICATIONS.—PUBLIC.

Fort William, the 8th March, 1882.

No. 361.—The Notification of the Home, Revenue and Agricultural Department, No. 1560, dated the 1st October 1880, is cancelled from this date. Arms, ammunition, and military stores brought into an Indian port, and declared under manifest to be consignments without transhipment to any port on the seaboard of the Persian Gulf, will, in terms of the Notification of the Home Department, No. 1572, dated 29th August 1879, be exempt, until further orders, from the prohibitions and directions contained in Section 6 of the Indian Arms Act, 1878.

ESTABLISHMENTS.

The 8th March 1882.

No. 76.—In consequence of the transfer to the Bombay Presidency of Mr. P. C. H. Snow, C.S., Officiating Assistant Commissioner, 2nd Grade, in British Burma, the following temporary promotions are made, with effect from the 27th November 1881:—

Mr. H. T. White, C.S., Assistant Commissioner, 4th Grade, to officiate as Assistant Commissioner, 2nd Grade.

Mr. G. W. Shaw, C.S., Assistant Commissioner, 4th Grade, to officiate as Assistant Commissioner, 3rd Grade.

No. 77.—In consequence of the transfer to the Bombay Presidency of Mr. E. C. Morrisson, C.S., Officiating Assistant Commissioner, 2nd Grade, in British Burma, and of the return to duty of Mr. K. G. Burne, Assistant Commissioner, 3rd Grade, the following alterations of rank are made, with effect from the 16th December 1881:—

Mr. K. G. Burne, Assistant Commissioner, 3rd Grade, to officiate as Assistant Commissioner, 1st Grade.

Mr. D. J. A. Campbell, C.S., Assistant Commissioner, 4th Grade, to officiate as Assistant Commissioner, 2nd Grade.

Mr. H. L. Eales, C.S., Assistant Commissioner, 4th Grade, to officiate as Assistant Commissioner, 3rd Grade.

The 9th March 1882.

No. 80.—In consequence of the retirement of Colonel H. N. Davies, Deputy Commissioner, 1st Grade, the following promotions are made in the British Burma Commission, with effect from the 14th January 1882:—

Lieutenant-Colonel W. W. Pemberton, Deputy Commissioner, 2nd Grade, to be Deputy Commissioner, 1st Grade.

Major H. R. Spearman, Deputy Commissioner, 3rd Grade, to be Deputy Commissioner, 2nd Grade.

Major C. H. A. Gower, Deputy Commissioner, 4th Grade, to be Deputy Commissioner, 3rd Grade.

Mr. G. L. Weidemann, C. S., Assistant Commissioner, 1st Grade, to be Deputy Commissioner, 4th Grade.

Mr. W. C. Midwinter, Assistant Commissioner, 2nd Grade, to be Assistant Commissioner, 1st Grade.

Mr. K. G. Burne, Assistant Commissioner, 3rd Grade, to be Assistant Commissioner, 2nd Grade.

Captain T. N. Jenkins, Assistant Commissioner, 4th Grade, to be Assistant Commissioner, 3rd Grade.

Mr. J. K. Macrae, Deputy Commissioner, 2nd Grade, to officiate as Deputy Commissioner, 1st Grade.

Mr. M. C. Poole, Deputy Commissioner, 4th Grade, to officiate as Deputy Commissioner, 3rd Grade.

EXAMINATIONS.

The 7th March 1882.

No. 25.—The Reverend T. C. Shepherd, of the Bengal Ecclesiastical Establishment, at present Chaplain of Hyderabad in Sind, has passed the Lower Standard Examination in Hindustani.

JUDICIAL.

The 4th March 1882.

No. 314.—Under the provisions of Section 5 of Act XVII of 1877 (The Punjab Courts' Act, 1877), the Governor General in Council is pleased to appoint Mr. W. J. Rattigan, M.A., Ph.D., Barrister-at-Law, to officiate as a Judge of the Chief Court of the Punjab, during the absence on furlough of Mr. H. M. Plowden, Barrister-at-Law, or until further orders.

The 9th March 1882.

No. 349.—In exercise of the power conferred by Section 64A of the Code of Criminal Procedure (Act X of 1872), the Governor General in Council is pleased to direct the transfer of the Criminal appeals specified below from the Court of the Judicial Commissioner of Oudh to the High Court of the North-Western Provinces:—

<i>Appellant.</i>	<i>Respondent.</i>	<i>Sec.</i>	<i>Charge.</i>	<i>I. P. C.</i>	<i>Date of decision.</i>
1. Ramadhin	Queen Empress.	232			20-7-1881.
2. Madar Bux	"	376		"	20-7-1881.
3. Mt. Menda	"	318		"	26-7-1881.
4. Sheodial <i>alias</i> Matadin	"	413-75		"	10-8-1881.
5. Yusuf	"	457-75		"	18-8-1881.
6. Lala Pasi	"	457-75		"	30-8-1881.
7. Chund Khan	"	381, 109-7 & 411		"	21-8-1881.
8. D. F. Beam	"	406-75		"	5-9-1881.
9. Haidar Khan	"	411-75 & 24		"	29-9-1881.
10. Parorani	"	318		"	11-10-1881.
11. Mehrban	"	318		"	11-10-1881.
12. Sita Ram	"	318		"	11-10-1881.
13. Bhairam Bikh	"	376		"	19-10-1881.
14. Khuda Bux	"	392-75		"	26-10-1881.
15. Laltua	"	454-75		"	31-10-1881.
16. Mt. Dulia <i>alias</i> Deoki	"	317		"	31-10-1881.
17. Bakhtawar	"	411-75		"	14-11-1881.
18. Rajjab	"	379-75		"	14-11-1881.
19. Bismallah	"	380-75		"	16-11-1881.
20. Ghuru	"	454-75		"	23-11-1881.
21. Pusu	"	454-75		"	23-11-1881.
22. Surju	"	379-75		"	

POLICE.

The 6th March 1882.

No. 78.—The services of Mr. D. W. Ritchie, District Superintendent of Police, Noakholly, in the Lower Provinces, are placed at the disposal of the Chief Commissioner of Assam.

A. MACKENZIE,

Offg. Secy. to the Govt. of India.

REVENUE AND AGRICULTURAL DEPARTMENT.

NOTIFICATION.—METEOROLOGY.

Fort William, the 10th March 1882.

No. 19 *Met.*—Mr. H. F. Blanford, having returned from the privilege leave granted to him in Notification No. 60, dated the 16th December 1881, received charge of the office of Meteorological Reporter to the Government of India from Mr. J. Eliot on the forenoon of the 6th March 1882.

E. C. BUCK,

Offg. Secy. to the Govt. of India.

FOREIGN DEPARTMENT.

NOTIFICATIONS.—GENERAL.

Fort William, the 7th March 1882.

No. 329 G. G.—The following appointment is made, with effect from the 11th February 1882:—

Captain D. W. K. Barr, Political Agent, 2nd Class, sub. *pro tem.*, to be Superintendent of the Rewa State, in addition to his duties as Political Agent in Baghelkhand.

The 10th March 1882.

No. 355 G. G.—Mr. J. Lambert, Deputy Commissioner of Police, Calcutta, is appointed to officiate as a Political Resident of the 2nd Class and as General Superintendent of the Operations for the Suppression of ~~Robbery and~~ Dacoity, *vice* Lieutenant Colonel M. D. Henderson, *proceeding on furlough.*

No. 357 G. G.—The services of Surgeon J. Scully are, on his return from furlough, placed at the disposal of the Department of Finance and Commerce.

No. 359 G. G.—C. Bhima Rao, Attaché to the Resident at Hyderabad, is appointed to officiate in

the 3rd Class of Assistant Commissioners in the Hyderabad Assigned Districts, *vice* Maulvi Muhammad Nizam-ud-din Havan Khan, B.A., B.L., appointed Assistant Commissioner, 3rd Class, sub. *pro tem.*

No. 361 G. G.—Mir Ihsan ul Hakk is appointed to officiate as an Attaché to the Resident at Hyderabad, *vice* C. Bhima Rao.

No. 364 G. G.—Syed Shams-ud-din Ali, Khan Bahadur, Assistant Superintendent of Police at Secunderabad, is appointed to be an Assistant Commissioner of the 3rd class in the Hyderabad Assigned Districts and Assistant Cantonment Magistrate and Judge in Secunderabad, *vice* Sheikh Hissam-ud-din, retired.

POLITICAL.

The 10th March 1882.

No. 73 G. P.—With reference to Notification No. 898 P. of the 30th April 1877, Mr. H. Furrer, Consul for Sweden and Norway at Aden, resumed charge of his office on the 8th February 1882.

C. GRANT,

Secy. to the Govt. of India.

DEPARTMENT OF FINANCE AND COMMERCE.

For Financial Statement published in "Gazette of India Extraordinary" of Wednesday, 8th March 1882, see Gazette Supplement of this day's date:—Report of Proceedings of Legislative Department.

NOTIFICATIONS.

Fort William, the 3rd March 1882.

No. 1288.—In exercise of the powers conferred by Sections nine, fifteen, seventeen, thirty-two, fifty-one, and fifty-six of the Indian Stamp Act, 1879, the Governor General in Council is pleased to make the following Rules:—

CHAPTER I.—Preliminary.

1. These Rules shall come into force throughout British India on the 1st April 1882 in supersession of the Rules promulgated by Notifications No. 875, dated 26th February, and No. 966, dated 4th June 1881.

2. All words and expressions used in these Rules and defined in the Indian Stamp Act, 1879, shall be deemed to have the meaning attached to them respectively by the said Act.

3. There shall be two kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, 1879, namely—

(a) Impressed Stamps—including—

Impressed Sheets,—that is to say, sheets of paper bearing the impression of Stamps of different values engraved thereon, and sold to the public for use by them in accordance with these Rules.

Impressed Labels,—to be affixed and impressed by Government Officers as directed in Chapter III of these Rules.

(b) Adhesive Stamps sold to the public for use by them in accordance with these Rules.

CHAPTER II.—Of Impressed Sheets.

4. All instruments chargeable with duty, except Hundis, may be written on Impressed Sheets, and, except as provided by Section ten of the said Act and by these Rules, shall be so written.

5 (a). When any instrument is to be written on an Impressed Sheet, if the amount of duty with which such instrument is chargeable does not exceed one hundred rupees, a single sheet shall be used, unless—

where the application for the required stamp is made at a treasury, the officer in charge of such treasury, or, where such application is made to a stamp-vendor, the vendor certifies that he is unable to furnish a single stamp of the required value.

(b). When the amount of duty chargeable in respect of any instrument exceeds one hundred rupees, or a treasury officer or stamp-vendor has certified under clause (a) that he is unable to furnish a single stamp of the required value, the number of sheets used for indicating the payment of duty shall not exceed the number which the treasury officer or the stamp-vendor certifies in either case to be the smallest number which he can furnish so as to make up the required amount.

(c). No certificate shall be made under clause (a) or clause (b) by a stamp-vendor in any case in which the stamp duty required exceeds the highest value of the stamps which such vendor is authorised to sell.

(d). When, under this Rule, two or more Impressed Sheets are used to make up the amount of duty chargeable in respect of any instrument, a portion of such instrument shall be written on each sheet so used.

(e). When a single sheet used under this Rule is found insufficient to admit of the entire instrument being written on the side of the paper which bears the stamp, so much plain paper may be subjoined thereto as may be necessary for the complete writing of such instrument: provided that in every such case the side of the sheet which bears the stamp must be covered by a substantial part of the instrument before any part of the latter can be written on the plain paper joined to such sheet. Provide further, that the part of the instrument written on the plain paper must be attested by the signatures or marks of all the persons executing the document and the witnesses to the same.

6 (a). Hundis other than hundis which can be stamped with an adhesive stamp under Section ten of the said Act shall be written as follows:—

- (1) Hundis payable otherwise than on demand, but not more than one year after date or sight, and for amounts not exceeding Rs. 30,000 in individual value, on impressed sheets bearing the word Hundi;
- (2) Hundis exceeding Rs. 30,000 in individual value, and Hundis payable at more than one year after date or sight, on paper supplied for sale by the Government, and to which labels have been affixed by one of the officers mentioned in Rule nine, clause (b), or by the Superintendent of Stamps, Calcutta, and impressed by him in manner provided by Rule ten.

(b). Every sheet of such stamped paper shall be of a size not less than $8\frac{5}{8} \times 5\frac{1}{8}$ inches, and no plain paper shall be joined to it.

(c). The provisions in Rule five as to use of two or more sheets of stamped paper when a single stamp of the required value is not procurable apply also to Hundi stamps used under this Rule.

7. The duty payable on any instrument chargeable with a duty of one anna may be denoted by a coloured impression marked on a skeleton form of such instrument by the Superintendent of Stamps at Calcutta, Bombay, Madras, or Rangoon.

CHAPTER III.—Of Impressed Labels.

8. Impressed labels may be used for the following instruments and counterparts thereof, namely,—

- (1) Administration-bonds:
- (2) Affidavits:
- (3) Appointments made in execution of a power:
- (4) Articles of Association of a Company:
- (5) Articles of clerkship;
- (6) Bills of lading:
- (7) Charter-parties:

- (8) Declarations of trust:
- (9) Instruments evidencing an agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property:
- (10) Leases printed or lithographed in an Oriental language, when the written matter filled in does not exceed one-fourth of the printed matter:
- (11) Memoranda of Association of Companies:
- (12) Notes of Protest:
- (13) Petitions for leave to file a specification of an invention, &c :
- (14) Policies of insurance:
- (15) Revocations of trust:
- (16) Warrants for Goods:

and for the following—when written in any European language, provided that any instrument written in any European language other than English shall have attached to it a translation in the English language—

- (17) Agreements or memoranda of Agreements, which in the opinion of the officer empowered to affix the label cannot conveniently be written on Impressed Sheets:
- (18) Instruments engrossed on parchment and written in the English style, which in the opinion of such officer cannot conveniently be written on Impressed Sheets:
- (19) Awards:
- (20) Bills of Exchange payable otherwise than on demand and drawn in British India
- (21) Bonds:
- (22) Certificates of sale:
- (23) Composition-funds:
- (24) Conveyances:
- (25) Instruments imposing a further charge on mortgaged property:
- (26) Instruments of apprenticeship:
- (27) Instruments of co-partnership:
- (28) Instruments of dissolution of partnership:
- (29) Instruments of exchange:
- (30) Instruments of gift:
- (31) Instruments of partition:
- (32) Leases:
- (33) Letters of license:
- (34) Mortgage-deeds:
- (35) Powers of Attorney:
- (36) Reconveyances of mortgaged property:
- (37) Releases:
- (38) Settlements:
- (39) Transfers of the description mentioned in Article No. 60, clauses (b), (c), and (d) of the First Schedule of the said Act.

9. The following officers are empowered to affix these labels to the instruments mentioned in Rule eight, namely,—

- (a) the Collectors of Calcutta and Karáchi;
- (b) the Superintendents of Stamps at Madras, Bombay, Lahore, Rangoon, Maulmain, and Akyab;
- (c) the Commissioner of Stamps, North-Western Provinces and Oudh;
- (d) the Superintendent of Stamps (Political Resident), Aden.

10 (a). Every such officer shall, upon any instrument mentioned in Rule eight being brought to him before it is executed, and application being made to him for that purpose, affix thereto a label or labels of such value as the applicant may desire and pay for, and impress such label or labels by means of a stamping-machine, and also stamp or write on the face of the label or labels the date of impressing the label or labels before returning the instrument to the applicant. In the case of instruments written on parchment, the labels must be further secured by metallic eyelets.

(b). When the stamp duty amounts to five rupees or upwards, such officer shall further write on the face of the label or labels his initials, and, when the stamp duty amounts to rupees twenty or upwards, shall also attach his usual signature to the instrument immediately under the labels.

11 (a). The payment of duty on instruments (other than Bills of Exchange, Cheques, and Promissory Notes) executed out of British India and requiring to be stamped after their receipt in British India, shall be indicated only by impressed labels.

(b). When any such instrument is taken to the Collector under Section seventeen of the said Act, the Collector, unless he be Collector of Calcutta or Karáchi, shall send the instrument to one of the officers mentioned in Rule nine, remitting the amount of duty paid in respect of such instrument; and such officer shall stamp the instrument in the manner prescribed by Rules 10 (a) and 10 (b) and return the same to the Collector for delivery to the person by whom it was produced.

CHAPTER IV.—*Adhesive Stamps.*

12. Bills of Exchange, payable otherwise than on demand and drawn in sets, when the amount of stamp duty does not exceed one anna for each part of the set, may be stamped with adhesive stamps.

13. Except as otherwise provided in these Rules, the adhesive stamp used to denote the duty of one anna shall bear the words "One anna."

14. The following instruments when stamped with adhesive stamps shall be stamped as follows:—

(a) Bills of Exchange, Cheques, and Promissory Notes drawn or made out of British India, with adhesive stamps bearing the words "Foreign Bill."

(b) Transfers of shares of Public Companies and Associations, with adhesive stamps bearing the words "Share Transfer."

(c) An entry as an Advocate, Vakil, or Attorney on the roll of any High Court, with an adhesive stamp bearing the word "Advocate," "Vakil," or "Attorney."

(Such stamp shall be affixed under the superintendence and responsibility of a gazetted officer of the High Court, who shall obtain the stamp from the Superintendent of Stamps and account to him for it. The gazetted officer who affixes the stamp shall write on the face of it his usual signature and the date of signature before parting with the instrument.)

(d) Notarial Acts, with adhesive Foreign Bill stamps bearing the word "Notarial" printed over them.

CHAPTER V. — *Miscellaneous.*

15. When it is necessary under Section fifteen of the said Act to denote upon one instrument the payment of duty in respect of another, such payment shall be denoted by an endorsement under the hand of the Collector on the former instrument.

16. Every payment made under Section thirty of the said Act shall be made in cash.

17. The Collector may require every person claiming a refund or renewal under Chapter VI of the said Act, or his duly authorised agent, to make an oral deposition on oath or affirmation, or to put in an affidavit, setting forth the circumstances under which the claim has arisen. The Collector may also, if he thinks fit, call for the evidence of witnesses in support of the statement set forth in the deposition or affidavit of the claimant or his Agent.

18. Any Magistrate convicting or trying an offender under Chapter VIII of the Stamp Act may grant to any person, who may have contributed to the conviction, a reward within a limit to be fixed by the local Government.

The 10th March 1882.

No. 1449.—In exercise of the powers conferred by Section 7 of the Indian Salt Act, 1882 the Governor General in Council directs that on and after the date of this Notification the duty to be paid on salt manufactured in or imported by land into any part of British India, except Burma and that portion of the territories administered by the Lieutenant-Governor of the Punjab which lies west of the river Indus, shall be rupees two for each maund of 82½ lbs. avoirdupois weight.

2. The Governor General in Council further directs that not less than two copies of a notice, in the vernacular language of the district, stating that the salt duty has been reduced from Rs. 2-14 (or Rs. 2-8 as the case may be) to Rs. 2 per maund, shall be issued by each Local Government to every town and village within its jurisdiction to which the reduction applies, and shall also be made public in such other manner as the Local Government may deem fit.

No. 1408.—Babu Ishan Chandin Basu, M.A., appointed to officiate as Assistant Accountant General, Bombay, received charge of that office, before noon, on the 1st March 1882.

No. 1469.—In exercise of the powers conferred by the Opium Act I of 1873, the Governor General in Council is pleased to direct that the said Act shall come into force in the Province of Coorg on the 1st day of April 1882.

No. 1487.—Mr. W. H. Egerton, appointed to be Assistant Accountant General, Punjab, received charge of that office, before noon, on the 3rd March 1882.

No. 1488.—*Abstract of the Accounts of the Department of Issue of Paper Currency on the 28th February 1882, published as required by Section 23 of the Indian Paper Currency Act, 1871.*

CIRCLES OF ISSUE.	Whole amount of Notes in circulation.	RESERVE IN SILVER COIN AND BULLION.		
		Coin.	Bullion.	TOTAL.
	Rs.	Rs.	Rs.	Rs.
Calcutta	6,86,79,995	1,32,78,214	45,28,070	1,78,06,284
Madras	1,35,61,135	69,67,680	11,30,000	80,97,680
Bombay	3,2,30,695	1,02,80,518	85,26,642	1,38,07,160
Allahabad	1,08,76,130	1,42,86,340	...	1,42,86,340
Lahore	78,41,255	1,74,15,425	...	1,74,15,425
Calicut	16,01,985	12,40,190	...	12,40,190
Coconada	2,35,745	2,45,560	...	2,45,560
Nagpore	2,78,910	5,51,875	...	5,51,875
Korrraches	28,40,005	36,08,035	40,700	36,48,735
Akola	1,77,300	3,17,080	..	3,17,080
TOTAL	13,74,16,295	6,81,90,917	92,25,412	7,74,16,329
Invested in Government Securities under Section 17 of the Act				5,99,99,966
GRAND TOTAL				13,74,16,295

T. C. HOPE,
Secy. to the Govt. of India.

MILITARY DEPARTMENT.

Fort William, the 10th March, 1882.

APPOINTMENTS.

No. 110.—STAFF CORPS—

The undermentioned officers are admitted to the Bengal Staff Corps, with effect from the dates specified, subject to the confirmation of the Right Hon'ble the Secretary for State of India:—

Lieutenant Philip Barber Lindsell, Royal Irish Regiment, Officiating Squadron Officer, 2nd Bengal Cavalry,—11th June, 1880.

Lieutenant Henry Templer, Somersetshire Regiment, Officiating Squadron Officer, 2nd Punjab Cavalry,—20th November, 1880.

Lieutenant Ralph Champneys Broome, Leinster Regiment, Officiating Squadron Officer, 4th Bengal Cavalry,—1st January, 1881.

No. 111.—ARMY STAFF—

Major S. W. Tyndall, Durham Light Infantry, to be Inspector of Gymnasia in India, in succession to Major H. J. Hallows, who vacates on promotion. Dated 22nd February, 1882.

No. 112.—COMMISSARIAT DEPARTMENT—

Captain E. F. J. deC. Rennick and Lieutenant W. R. Yeilding, Sub-Assistant Commissioners General, 3rd class, on probation, are confirmed in their appointments, with effect from the 13th November, 1880, and 29th January, 1881, respectively.

No. 113.—MEDICAL DEPARTMENT—

Surgeon-General Sir A. D. Home, K.C.B., V.C., Army Medical Department, appointed to the Bengal Presidency, having reported his arrival at Fort William, is to be Surgeon-General, Her Majesty's Forces, Bengal, with effect from the 13th March, 1882, *vice* Surgeon-General T. Crawford, M.D., transferred to the Home establishment.

No. 114.—MILITARY WORKS DEPARTMENT—

Colonel J. J. McL. Innes, V.C., R.E., Deputy Inspector General, to be Inspector General of Military Works, *vice* Major-General A. Cadell, who retires. Dated 13th March, 1882.

No. 115.—PUNJAB FRONTIER FORCE—

No. 4 Mountain Battery.

Captain W. M. Campbell, R.A., Officiating Commandant, No. 2 Mountain Battery, to be Commandant, *vice* Captain G. T. Carré, who vacates on promotion.

1st Punjab Cavalry.

Lieutenant J. S. E. Western, Madras S.C., Officiating Wing Officer, 6th Punjab Infantry, to be Squadron Officer, *vice* Captain A. M. Muir, seconded.

6th Punjab Infantry.

Lieutenant R. P. Grove, Cheshire Regiment, a candidate for the Bengal Staff Corps, to be Officiating Wing Officer, on probation, with effect from date of joining.

FURLOUGH AND LEAVE.

No. 116.—The undermentioned officers are granted furlough out of India, with the necessary subsidiary leave:—

Major C. E. Macaulay, Bengal S.O., Assistant Commissioner, 2nd class, Officiating Deputy Commissioner, Dera Ismael Khan, Punjab, (p. a.) for two years, under rule IX of the regulations of 1868.

Major (Brevet Lieutenant-Colonel) D. M. Strong, General List, Infantry, Squadron Commander and 2nd-in-Command, 10th Bengal (The Duke of Cambridge's Own) Lancers, (m. c.) for one year—156 days under rules IX and XV and the remaining period under rule XIV, clause (2) of the regulations of 1868.

Captain A. J. Brander, Bengal S.C., Wing Officer, 19th Native Infantry, (p. a.) for two years, under rule IX of the regulations of 1868.

Lieutenant A. F. Cotton, Bengal S.C., Wing Officer and Adjutant, 35th Native Infantry, (m. c.) for one year—353 days under rules IX and XV and the remaining period under rule XIV, clause (2), of the regulations of 1868.

Deputy Surgeon-General W. H. Adley, (p. a.) for 46 days—the period up to 31st March 1882 under the provisions of G. G. O. No. 872 of 1876 and the remaining period under rule IX of the regulations of 1868.

Brigade-Surgeon A. Garden, M.D., (m. c.) for one year, under the regulations of 1854.

Surgeon-Major R. Jameson, M.V., Superintendent of the Central Prison, Fatehgarh, (p. a.) for 236 days, under rule IX of the regulations of 1868.

Conductor A. Anderson, Ordnance Department, (m. c.) for one year, under rule VI of the regulations of 1875.

Sub-Conductor W. Jeffreys, Commissariat Department, (m. c.) for one year, under the regulations of 1868.

No. 117.—The undermentioned officer has been granted an extension of furlough by the Right Hon'ble the Secretary of State for India:—

Lieutenant-Colonel (Brevet Colonel) J. J. H. Gordon, C.B., Bengal S.C., (p. a.) for 89 days.

No. 118.—Mr. A. J. Whitten, Assistant to the Controller of Military Accounts, Bengal, is granted furlough to Europe for twelve months, under Section 49, Civil Leave Code.

LONDON GAZETTE.

No. 119.—The following extracts are published for general information:—

"London Gazette," dated the 7th February, 1882, pages 488 and 489.

War Office, Pall Mall, 7th February, 1882.

BREVET.**MEMORANDA.**

His Highness Maharajah Rana Parna, Bahadur of Dholpur, to have the honorary rank of Major. Dated 8th February, 1882.

Deputy-Commissary and Honorary Lieutenant James Grantorex, Madras Establishment, to have the honorary rank of Captain. Dated 22nd September, 1881.

India Office, 7th February, 1882.

HER Majesty has approved of the following Admissions to the Staff Corps made by the Governments in India:—

BENGAL STAFF CORPS.*To be Lieutenants.*

Lieutenant Robert Alfred Baker, from the East Kent Regiment. Dated 12th September, 1879, but to rank from 24th March, 1876.

Lieutenant George Edward Hyde Cates, from the East Kent Regiment. Dated 6th January, 1880, but to rank from 11th September, 1876.

Lieutenant Godfrey Beckett Hodgson, from the Cheshire Regiment. Dated 15th September, 1880, but to rank from 13th November, 1878.

Lieutenant Walter Harding Allen, from the Cheshire Regiment. Dated 5th March, 1880, but to rank from 3rd January, 1879.

Lieutenant Rufus Hare Rattray, from the Cheshire Regiment. Dated 23rd April, 1880, but to rank from 1st January, 1880.

Lieutenant William James Knowles Dobbin, from the Devonshire Regiment. Dated 20th August, 1880, but to rank from 25th February, 1880.

Second Lieutenant Arthur Fountaine Hogge, from the West Yorkshire Regiment. Dated 14th April, 1880.

Second Lieutenant Francis George Rodney Ostreham, from the Royal Warwickshire Regiment. Dated 1st May, 1880.

Second Lieutenant Walter Ernest Phillips, from the North Lancashire Regiment. Dated 14th July, 1880.

Second Lieutenant William Edwin Bunbury, from the Royal West Surrey Regiment. Dated 14th September, 1880.

PENSIONS.

No. 110.—Conductor James Townsend, Commissariat Department, is transferred to the Pension establishment.

PROMOTIONS.

No. 121.—The following promotion is made, subject to Her Majesty's approval:—

BENGAL STAFF CORPS.*To be Lieutenant-Colonel.*

Major Alfred Bloomfield,—7th March, 1882.

No. 122.—Under the provisions of the Royal Warrant of the 10th November, 1881, the undermentioned officers of the Staff Corps are placed on the Indian Gradation List, as specified:—

Colonel A. Ritherdon, Madras S.C., is placed on the list of Major-Generals,

Major (now Lieutenant-Colonel) A. R. Chapman, Bengal S.C., is placed on the list of Lieutenant Colonels,

in consequence of the transfer to the Unemployed Supernumerary List, of Colonel (Major-General) W. A. Riach, Madras S. C. Dated 1st January, 1882.

Colonel J. I. Murray, C.B., Bengal S.C., is placed on the list of Major-Generals,

Major (now Lieutenant-Colonel) F. C. St. John, Madras S.C., is placed on the list of Lieutenant-Colonels,

in consequence of the transfer to the Unemployed Supernumerary List, of Major-General C. C. McCallum, Madras S.C. Dated 10th January, 1882.

No. 123.—COMMISSARIAT DEPARTMENT—

The promotion to the grade of Deputy-Assistant Commissary of Conductor and Honorary Lieutenant John Henry Sharpe, as notified in G. O. No. 501 of 1881, is antedated to the 21st January, 1881: such antedate not to carry back allowances.

No. 124.—MILITARY WORKS DEPARTMENT—

Lieutenant S. A. E. Hickson, R.E., Assistant Engineer, 1st grade, Military Works Department, is promoted to Executive Engineer, 4th grade, temporary rank, with effect from 7th October 1881.

No. 125.—The following promotions are made in the Barrack Department Establishment of the Military Works Department, with effect from the 23rd January, 1882:—

Sub-Conductor J. McClure, Assistant Barrack Master, to Barrack Master, 2nd class, permanent.

Sub-Conductor J. Inglis, Assistant Barrack Master, to Barrack Master, 2nd class, temporary.

RETIREMENTS.

No. 126.—Major George Constable Gregory, Bengal S. C., is permitted to retire from the service, with effect from the 9th March, 1882, subject to Her Majesty's approval.

No. 127.—Surgeon Alfred John Wall, M.D., has been transferred to the Half Pay List, with effect from the 26th February, 1882, subject to Her Majesty's approval.

REWARDS.

No. 128.—ORDER OF BRITISH INDIA—

His Excellency the Governor General in Council is pleased to admit the undermentioned Native officer to the 1st class of the Order of British India from the date specified:—

BOMBAY.

To the 1st class, with title "Sirdar Bahadur."

Subadar Major Shaik Ebrahim, 20th Native Infantry, *vice* pensioned Ressaldar Major Bennoo Sing, "Sirdar Bahadur," deceased,—9th July, 1881.

G. CHESNEY, Colonel,

Secretary to the Government of India.

MILITARY DEPARTMENT.

NOTIFICATION.

Catcutta, the 10th March, 1882.

Under Clause 26 of the Regulations appended to the Regimental Debts Act of 1863, it is notified that report of the death of the undermentioned Commissioned Officer, on the date specified, was received in the Military Department from the 3rd February to the 9th March, 1882:—

Corps.	Rank and Name.	Date of Decease.	Place of Decease.	Testate or Intestate.	REMARKS.
Army Medical Department.	Surgeon F. E. C. Hood ...	15th February, 1882.	Agra ...	Intestate.	

Statement of Deposits on account of Estates from the 10th February to the 9th March, 1882.

On whose account.	Rank.	Corps.	Date of Decease.	Testate or Intestate.	Total un-claimed amount deposited.	Amount paid in India	Date to which claims will be received.
<i>British Military Service.</i>							
Arthur Major Brabazon (a) ..	Lieutenant	1st Battalion, The Suffolk Regiment.	13th November, 1881.	Intestate ...	Rs. 726 1 0	A. P. ...	10th May, 1882.
<i>Army Medical Department.</i>							
Robert Powell Murphy (b) ...	Surgeon-Major.	Army Medical Department.	1st September, 1881.	Testate ...	1,175 2 2	...	10th May, 1882.

(a) Next-of-kin.—Mother—Mrs. Brabazon.
Sister.—Henry Moore Brabazon.
Address.—Parsinstown Lodge, Mullingar, County Westmeath, Ireland.

(b) Next-of-kin.—Widow—Edith.
Father.—W. E. Murphy
Address.—Bank of Ireland, Limerick.

G. CHESNEY, Colonel,

Secretary to the Government of India.

MILITARY (MARINE) DEPARTMENT.*Fort William, the 10th March, 1882.***APPOINTMENTS.**

No. 9.—Under the authority of the Right Hon'ble the Secretary of State for India, the Governor General in Council is pleased to notify the following appointments:—

Captain H. W. Brent, R. N., to be Director of the Indian Marine, with effect from the 7th March, 1882.

Captain G. O'B. Carew, late I. N., Superintendent of Marine, Bombay, to be Deputy Director of the Indian Marine, with effect from the 1st April, 1882.

No. 10.—The Governor General in Council is pleased to appoint Lieutenant F. Warden, late I. N., Assistant Port Officer, Calcutta, to be Port Officer, Rangoon, with effect from the 1st April, 1882, *vice* Lieutenant Arnot, retired.

G. CHESNEY, Colonel,

Secretary to the Government of India.

PUBLIC WORKS DEPARTMENT.**NOTIFICATIONS.***Fort William, the 3rd March 1882.*

No. 75.—Mr. C. E. Ross is appointed an Apprentice in the Superior Account Establishment, and posted to the Office of the Examiner, Public Works Accounts, Punjab.

The 6th March 1882.

No. 76.—Babu Kali Krishna Mukhopadhyay, Apprentice Engineer, Punjab Public Works Department, is promoted to Assistant Engineer, 3rd Grade, with effect from 1st February 1882.

The 8th March 1882.

No. 77.—Lieutenant-Colonel C. H. Luard, R.E., Superintending Engineer, Class I, is appointed to officiate as Consulting Engineer to the Government of India for Guaranteed Railways, Lucknow, during the absence on furlough of Lieutenant-Colonel R. C. B. Pemberton, R.E., or until further orders.

No. 78.—Captain R. Gardiner, R.E., Executive Engineer, 3rd Grade, is, on return from furlough, posted to the Establishment under the Director General of Railways.

No. 79.—Mr. N. M. Carnell, Traffic Probationer on the Punjab Northern State Railway, is appointed Assistant Traffic Superintendent in Class IV of the Revenue Scale.

The 9th March 1882.

No. 80.—Captain W. W. B. Whiteford, R. E., Executive Engineer, 3rd Grade, is transferred from the Establishment under the Director General of Railways, to that under the Government of Bombay, Railway Branch.

The 10th March 1882.

No. 81.—With reference to Foreign Department Notification No. 310 G. G., dated the 3rd March 1882, the services of Mr. H. W. Clift, Executive Engineer, 2nd Grade, are placed at the disposal of the Government of Bombay for employment in the Railway Branch.

No. 82.—The Government of India has no further need of the services of Babu Sarat Chunder Rai, Apprentice Engineer, Bengal.

TELEGRAPH.*The 10th March 1882.*

No. 83.—The Governor General in Council is pleased to sanction, with effect from the 1st of April 1882, the following revision of Rule 37 of the "Rules and Rates for Inland Telegrams," and to cancel the foot-notes to that Rule:—

Prepayment of Reply.

Rule 37.—The sender of a message can prepay a reply, depositing for the purpose a sum not exceeding *ten times* the cost of his original telegram, but the message to which a reply is prepaid must not be addressed to more than one person. He must add to his message the words "Reply prepaid" or "Answer paid." These must form the concluding words of the message, but will not be charged for. On depositing the corresponding sum, the sender can add (free) to the words "Reply paid" or "Answer paid," the amount to which he wishes the reply to be limited. When the words "Reply paid" alone are given, without any specified amount, it will be understood that the minimum charge only for an "Ordinary" message has been prepaid. The Terminal Station pays to the Receiver in Telegraph stamps or in money, the amount prepaid, leaving it to him to send his answer how and when and to what address he pleases, or not to send one at all. The reply, if sent, is considered in every respect as a fresh message.

In the case of a message to which a reply is prepaid addressed to a station where there is no Telegraph Office, the amount is forwarded to destination from the nearest Government Telegraph Office, not in Telegraph stamps, but by currency notes and postage stamps in an insured cover, the sender must accordingly prepay the postal insurance fees. Reply deposits exceeding Rs. 2 in value cannot be received at or delivered from any Railway Telegraph Office. Messages addressed to stations on Railways to which replies exceeding Rs. 2 in value are prepaid are not transferred to the Railway Telegraph, but posted with currency notes and postage stamps enclosed from the nearest Government Telegraph Office, direct to the addressee. In the case of such messages also, the postal insurance fees are payable by the sender.

Should it be impossible to effect delivery of a "Reply paid" message, the Terminal Station sends a service telegram to that effect to the sender, and the amount deposited will be refunded, on application being made to the Telegraph Check Office, Calcutta. The words "Reply paid" or "Answer paid" entitle the addressee to receive the equivalent of the minimum charge only.

It should be distinctly understood that it is not compulsory on the Addressee to send a reply. The duty of the Terminal Station consists simply in paying to him in Telegraph stamps or in money, the amount prepaid, leaving him at liberty to do what he pleases with it.

W. S. TREVOR, Colonel, R.E.,

Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 11, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART II.

Notifications by High Court, Comptroller General, &c.

GAZETTE OF INDIA.

NOTICE.

The 11th March 1882.

From the 8th April next, till farther notice, Parts I, IV, and V of the *Gazette of India*, and the Weather and Crop Report, will be published at Simla. After the 1st April, all Notifications and other matter intended for publication in those Parts, should be addressed to the Officiating Publisher at that station.

Parts II and III and the Supplement will continue to be published in Calcutta.

From the 1st January 1882, Parts IV and V of the *Gazette of India*, containing the Acts and Bills of the Legislative Council, may be subscribed for separately from the other Parts of the Gazette. The annual subscription for the two Parts will be Rs. 5 per annum, payable in advance. When sent by post, Rs. 2-8 per annum additional will be charged for postage.

Complaints regarding non-receipt of any number of the *Gazette* should be forwarded within a week after the day on which it is due.

Applications for the supply of the *Gazette* on the *public service* should be addressed to the Home Department.

By an order of Government, all subscriptions must be paid *in advance*.

	Rs.	A.	P.
Subscription for <i>Gazette</i> and Supplement per annum	15	0	0
Postage	5	8	0
Subscription for Supplement only	6	0	0
Postage	3	0	0
For a single copy of the <i>Gazette</i>	0	8	0
For a single copy of the Supplement	0	8	0
Postage on single copies varies according to weight.			

E. J. DEAN.

Publisher, Gazette of India.

NOTICE.

The Office of Superintendent of Government Printing having been removed to No. 166, Dhurrumtollah Street, all communications intended for that Office should be sent to that address.

E. J. DEAN,

Supdt. of Govt. Printing, India.

NOTICE TO MARINERS.

No. 6 of 1882.

HINDOSTAN—WEST COAST.

NORTH CANARA.

Sunken danger off Modeshwur Cape.

Notice is hereby given that a dangerous rock has been discovered lying three miles westward of Modeshwur Cape, North Canara Coast.

This danger (*Dart rock*) is reported to consist of rock about a quarter of a cable in extent in a N. N. W. and S. S. E. direction. It has a depth of about 10 feet on it at low water, and lies with the following bearings and distances:—

Jali Kund, or Hog island, S. S. E., distant 5·4 miles ;

Modeshwur Cape, E. by N., distant 3·0 miles ;

Netrun or Pigeon island, S. W. by W., distant 7·0 miles ;

which place the rock in Latitude 14° 4' 55" N., Longitude 74° 25' 10" E.

A depth of 7 to 8 fathoms, mud, was obtained round the rock, with the exception of a shoal east

of $3\frac{1}{2}$ fathoms rock, about a cable's length to the eastward of it.

NOTE.—This danger, unless the sea is actually breaking upon it, is not discernible: great caution is therefore necessary when navigating in its vicinity.

(Bearings are Magnetic. Variation $1^{\circ} 0'$ Easterly in 1882.)

By direction of the Government of India,

A. DUNDAS TAYLOR, *Comdr. (late I.N.),*
Superintendent, Marine Survey of India.

Marine Survey Department,
Calcutta,
The 24th February 1882.

This Notice affects the following:—

BRITISH ADMIRALTY Charts, Nos. 774, 2737, 836 and 827; West Coast of Hindostan Pilot (1880), page 106.

INDIAN MARINE SURVEY Charts, Nos. 1b, 15a and 1257a. See also Taylor's Sailing Directory, Vol. I, page 399.

If this Notice is received on board-ship, the substance of it should be inserted on the Charts affected by it, and introduced into the Sailing Directions to which it relates.

NOTICE TO MARINERS.

No. 7 of 1882.

HINDOSTAN—WEST COAST.

BOMBAY HARBOUR APPROACHES.

Fishing Stakes.

The Port Officer, Bombay, has notified that the whole area of the sea off the entrance to the Port of Bombay, comprehended between the Kenery and Prongs Island Light-houses, bearing East respectively, is now preserved clear of fishing-stakes, and will be so maintained; but that to the north and south of this area there is no restriction as to the position in which fishing-stakes may be placed: consequently, the passage, with the Prongs Light-house bearing N. N. E. $\frac{1}{4}$ E., which formerly existed, should not now be used.

When coming from the southward, vessels must bring Kenery Light to southward of East before steering for the Outer Light-ship.

When approaching from the northward, vessels must bring the Prongs Light to northward of East before steering in.

(Bearings are Magnetic. Variation $1^{\circ} 7'$ Easterly in 1882.)

By direction of the Government of India,

A. DUNDAS TAYLOR, *Comdr. (late I.N.),*
Superintendent, Marine Survey of India.

Marine Survey Department,
Calcutta,
The 25th February 1882.

This Notice affects the following:—

BRITISH ADMIRALTY Charts, Nos. 2621, 737, 2736 and 826. Also Sailing Directions, West Coast of Hindostan Pilot (1880), pages 150 and 174.

INDIAN MARINE SURVEY Charts, Nos. 15 and 1257a and cancels Chart No. 67. See also Taylor's Sailing Directory, Vol. I, page 374.

If this Notice is received on board-ship, the substance of it should be inserted on the Charts affected by it and introduced into the Sailing Directions to which it relates.

NOTICE TO MARINERS.

No. 8 of 1882.

HINDOSTAN—WEST COAST.

BEYPPORE.

Erection of Pillar marking Southern boundary of Port.

The southern boundary pillar of the port of Beypore, situated about $1\frac{1}{2}$ miles S. S. E. $\frac{1}{4}$ E. from Beypore flagstaff, having been destroyed by the encroachment of the sea,

Notice is hereby given that a new pillar is to be erected 55 feet east, or inshore, of the old site, and 216 feet west of the local land road.

By direction of the Government of India,
A. DUNDAS TAYLOR, *Comdr. (late I.N.),*
Superintendent, Marine Survey of India.

Marine Survey Department,
Calcutta,
The 3rd March 1882.

This Notice affects the following:—

BRITISH ADMIRALTY Chart, No. 61.

If this Notice is received on board-ship, the substance of it should be inserted on the Chart affected by it, and introduced into the Sailing Directions to which it relates.

SURVEY OF INDIA.

NOTIFICATION.

Calcutta, the 8th March 1882.

No. 263.—The following promotion is made, with effect from the forenoon of the 7th instant, consequent on the appointment of Mr. W. H. Paterson, Surveyor, 1st Grade, as Chief Draftsman in the Surveyor General's Office, Calcutta, *vice* Mr. J. F. Baness, seconded on transfer to the Office of the Director General of Statistics to the Government of India:—

Mr. G. A. McGill, Surveyor, 2nd Grade, to be Surveyor, 1st Grade.

J. T. WALKER, *Lieut.-Genl., R.E.,*
Surveyor General of India.

REVENUE BRANCH, SURVEY OF INDIA.

NOTIFICATION.

Calcutta, the 7th March 1882.

No. 3.—Mr. S. M. Smylie, Surveyor, 3rd, Grade, is granted privilege leave for one month with effect from the forenoon of the 23rd February 1882, under the provisions of Chapter X, Section 136, of the Civil Leave Code.

J. SCONCE, *Lieut.-Col.,*
Deputy Surveyor General.

BANK OF BENGAL.*Calcutta, the 2nd March 1882.*

The Directors have made the following changes in the Bank's Establishment:—

Mr. W. Craw has been appointed to act as Agent at Agra, *vice* Mr. E. Fishbourne, who has been appointed Agent at Lahore.

R. HARDIE,
Secretary & Treasurer.

TELEGRAPH DEPARTMENT.**NOTIFICATIONS.***Calcutta, the 3rd March 1882.*

Offices opened and closed during the month of February 1882:—

Name of Station.	Where situated.	Date.	REMARKS.
Allahabad Cantonment.	Suburbs of Allahabad.	14th	Opened.
Allahabad Fort.	Suburbs of Allahabad.	24th	Ditto.
Dhar . . .	Central India . . .	1st	Ditto.
Dum-Duma . . .	Upper Assam . . .	17th	Ditto.
Ganeshkhind . . .	Bombay Presdy. . .	18th	Closed.
Hubli . . .	Dharwar District, Bombay Presdy.	20th	Opened.
Parrell . . .	Governor's Office, Bombay.	4th	Ditto.
Ruksoul . . .	Chumparun District, Frontier of Nepal, Bengal.	11th	Ditto.
Sagowlie . . .	Chumparun District Bengal.	2nd	Ditto.
Tanjoro . . .	Madras Presdy. . .	20th	Ditto.

No. 17.—Sir W. M. N. Young, Bart., an Assistant Superintendent of the 1st Grade, is allowed furlough for six months under Section 49 of the Civil Leave Code, with effect from the forenoon of the 1st March 1882.

R. MURRAY, Col.,
Dir. Genl. of Tels. in India.

AGENT, GOVERNOR GENERAL, FOR RAJPUTANA.**NOTIFICATIONS.***Mount Abu, the 28th February 1882.*

No. 506 G.—Colonel C. R. Blair and Lieutenant-Colonel Conolly, respectively, made over and assumed command of the Meywar Bhil Corps, and charge of the Office of Political Superintendent, Hilly Tracts, Meywar, on the afternoon of the 14th February 1882.

No. 515 G.—Lieutenant-Colonel T. E. Law, and Major H. P. Peacock, respectively, delivered over and received charge of the Ulwar Political Agency, on the forenoon of the 18th February 1882.

The 3rd March 1882.

No. 529 G.—Surgeons G. W. P. Dennys and D. French Mullen, respectively, delivered over and received medical charge of the Meywar Bhil Corps, on the forenoon of the 11th February 1882.

No. 531 G.—Surgeon D. French Mullen, M.D., in medical charge of the Meywar Bhil Corps, is granted thirty days' privilege leave, with effect from 14th February 1882.

By Order,
F. T. HEWSON,
for 1st Asst. Agent to the Govr. Genl.

CHIEF COMMISSIONER OF AJMIR-MERWARA.**NOTIFICATIONS.***Mount Abu, the 28th February 1882.*

No. 149.—The following rules and orders passed by the Chief Commissioner of Ajmir-Merwara under the Arms Act (XI of 1878), are hereby notified for general information:—

I.—The authority to detain arms and ammunition contemplated in clause 2 of Section 6 of the Arms Act may be exercised by any Magistrate, Justice of the Peace, or District Superintendent of Police and any Police Officer being not lower in rank than an Officer in charge of a reporting Police Station.

II.—Magistrates in granting licenses under Rule 11 of the rules framed by the Government of India to manufacture, convert or sell, ammunition and military stores, or to keep and sell the same shall deliver to each licensee two books in the Forms A and C or B and D (as the case may be) hereto appended, the one to be kept up as showing his stock-in-trade, and the other for the purpose of showing the sales of each day. The pages of these books shall be numbered in print from beginning to end, and the first and last page shall be signed by the Magistrate, or some European subordinate. The licensee will be required to pay the cost of these books. The Magistrate in delivering these books to the licensee will explain to him the necessity for keeping them up regularly, and the penalties attaching to failure to do so. The shop, premises and stock, of every licensed vendor shall be inspected once in every half-year by a Police Officer not below the rank of Inspector, and once in every year by the Magistrate or the District or one of his subordinates or by the District Superintendent of Police. Every officer making such inspection shall initial the stock and sale book of the licensee, and at once report to the Magistrate of the District any irregularity or breach of rules which may have come to his notice.

III.—License holders under Rule 11 of the rules framed by the Government of India shall store all consignments of arms, ammunition, or sulphur, in a place to be settled by the local Authorities.

IV.—Storage fees and the proportionate cost of such guard as may be necessary shall be borne by the license holders.

V.—Arms, ammunition, or sulphur will be taken out only according to the requirements of sale at the discretion of the Magistrate of the District.

VI.—No license holder under Rule XI shall be allowed to keep more than 50 1-lb. tins of gunpowder, and 50 boxes of caps on his shop premises.

VII.—Every license holder under Rule 11 will be required to have a fire-proof cellar in his shop, closed with an air-proof plug for the storing of gunpowder.

VIII.—Every Magistrate shall keep a register of the licenses granted by him under Rule 11 of the rules framed by the Government of India to manufacture, convert, or sell ammunition and military stores; such register shall be in the form E annexed. A copy of this register shall be furnished by the Magistrate to the District Superintendent of Police. The District Superintendent of Police will furnish to each officer in charge of a Police Station an extract (columns 1 to 6) giving the names of the persons living within his jurisdiction who hold licenses. And each Circle Inspector shall receive from the District Superintendent of Police an extract giving the names of all persons living in his circle who holds licenses. Every Inspector when making the inspection directed in Rule 11 shall enter in his copy of the register, in one of the subordinate columns of column 8, the date on which he made the inspection.

If the inspection disclose no irregularity or breach of the rules, no report will be made. But if at the inspection any fact is brought to light which it is advisable that the Magistrate shall know, the Inspector shall send a special report to the Magistrate through the District Superintendent of Police

noting in the column of remarks in his register the date on which the report was sent. Every Subordinate Magistrate and District Superintendent of Police making an inspection as directed in Rule 11 shall send to the Magistrate of the District a report of the result of his inspection for incorporation in the register, column 8 (5). At the close of the calendar year the Circle Inspectors will send their registers to the District Superintendent of Police for transmission to the Magistrate, who will enter in his register the facts recorded by the Inspectors opposite to the name of each licensee, and he will furnish each Political Agent with a copy of the return referring to his State, so that he may know exactly what ammunition has been bought during the year by the residents of the State to which he is accredited.

IX.—A register in the Form F shall be kept by the Magistrate of all licenses to keep and sell arms, ammunition and military stores, and the same rules shall *mutatis mutandis* be observed with regard to this register as are laid down in Rule 11 for the register in Form E.

X.—Every person licensed to sell arms and ammunition shall affix a board on a conspicuous part of his shop or usual place of business and shall cause to be painted thereon, in large letters in English and the vernacular of the district, his name and the words "license to manufacture" or "license to deal in arms, ammunition or military stores," as the case may be.

XI.—He shall also have a copy of Section 28 of the Indian Arms Act posted up in the vernacular of the District and in English on some conspicuous part of his usual place of business.

XII.—License holders under Rule 11 of the rules framed by the Government of India violating any of these rules shall be subject to the penalties enjoined in Section 23 of Arms Act XI of 1878.

Form A.

Store book of _____ son of _____ caste _____
resident of Mauza _____ Pargana _____ District _____
licensed to manufacture, convert or sell or keep arms, ammunition and military stores.

1	2	DESCRIPTION.								5	6
		3			4						
		FIRE ARMS.			OTHER WEAPONS.						
Date.		Guns.	Pistols.	Others.	Swords.	Bayonets.	Daggers.	Others.	Ammu- nition.	Military stores.	
January 1st	In store . . . Added to store . . . Disposed of . . .										
January 2nd	In store . . .										

NOTE.—Details not provided for in columns 3, 4, 5, and 6 should be entered in manuscript.

Form B.

Store book of _____ son of _____ caste _____
resident of Mauza _____ Pargana _____ District _____
licensed to keep and sell arms, ammunition and military stores.

1	2	DESCRIPTION.								5	6
		3			4						
		FIRE ARMS.			OTHER WEAPONS.						
Date.		Guns.	Pistols.	Others.	Swords.	Bayonets.	Daggers.	Others.	Ammu- nition.	Military stores.	
January 1st	In Store										
	Added to store										
	Disposed of										
January 2nd	In store										

• NOTE. —Details not provided for in columns 3, 4, 5, and 6 should be entered in manuscript.

Form C.

Day book of _____ son of _____ caste _____
resident of Mauza _____ Pargana _____ District _____
licensed to manufacture, convert or sell or keep arms, ammunition or military stores.

1	2	3	4	5	6
Date.	Name of purchaser, with father's name.	Caste.	State and residence.	Articles purchased.	Price paid.

Form D.

Day book of _____ son of _____ caste _____
resident of Mauza _____ Pargana _____ District _____
licensed to keep and sell arms, ammunition, and military stores.

1	2	3	4	5	6
Date.	Name of purchaser, with father's name.	Caste.	State and resi- dence.	Articles pur- chased.	Price paid.

Form E.

Register of licences to manufacture, convert, or sell, or keep arms, ammunition, and military stores in District.

1	2	3	4	5	6	7				8	
Tahsil.	Number.	Name of licensee.	Father's name, caste, &c.	Place of business.	Date.	RESULT OF INSPECTIONS				REMARKS.	
						By Inspector of Police.					By Magistrate or Superintendent of Police.
						Quarter.					
						1st.	2nd.	3rd.	4th.		

Form F.

Register of licences to keep and sell arms, ammunition and military stores, District.

1	2	3	4	5	6	7				8	
Tahsil.	Number.	Name of licensee.	Father's name, caste, &c.	Place of business.	Date of license.	RESULT OF INSPECTIONS.				REMARKS.	
						By Inspector of Police.					By Magistrate or Superintendent of Police.
						Quarter.					
						1st.	2nd.	3rd.	4th.		

The 9th February 1882.

CITATION UNDER SECTION 250 OF ACT X OF 1865.

In the Court of the Commissioner and District Judge, Ajmir-Merwara.

In the matter of application of Mr. W. Coke, for probate of the will of the late Sergeant Robert Macaulay, Foreman, Ajmir, No. 2142, of the 1-5th Fusiliers Regiment of Foot.

Whereas Mr. William Coke, of Ajmir, has this day made application to this Court for grant of probate of the will executed by the late Sergeant Robert Macaulay, Foreman, Ajmir, No. 2112, of the 1-5th Fusiliers Regiment of Foot, this citation is issued calling upon persons interested in the estate of the deceased to take notice of the same, and come and see the proceedings before the grant of the probate on the 11th of March 1882, which is the date fixed for the hearing of the application.

L. S. SAUNDERS,

*Commissioner and District Judge,
Ajmir-Merwara.*

AJMR,
The 30th January 1882.

By Order,

F. T. HEWSON,

for 1st Asst. to the Chief Commr.

**MILITARY DEPARTMENT—
Military Works.**

NOTIFICATIONS.

Simla, the 2nd March 1882.

No. 3.—With reference to Government of India, Military Department, Notification No. 87, dated 24th February 1882, Captain S. J. Lambert, R.E., Assistant Engineer, 1st Grade, and Lieutenant H. F. Chesney, R.E., Assistant Engineer, 2nd Grade, are posted to the Meerut Command, Military Works, and Lieutenants J. G. Lutyens, R.E., and W. Huskisson, R.E., Assistant Engineers, 2nd Grade, to the Sirhind and Lahore Command, Military Works.

No. 4.—With reference to Government of India, Military Department, Notification No. 88, dated 24th February 1882, Lieutenant T. Digby, R.E., Assistant Engineer, 1st Grade, is posted to the Presidency and Oudh Command, Military Works.

No. 5.—Mr. P. McKenzie, Assistant Engineer, officiated as Executive Engineer of the Chakrata Division, Military Works, from the forenoon of the 17th December 1881, to the forenoon of 2nd January 1882.

A. CADELL, Major-Genl., R.E.,

Insp. Genl. of Military Works.

MEERUT CEMETERY.

Ruinous Tombs.

Notice is hereby given that the tombs enumerated below are in a ruinous condition, and that they will be demolished unless repaired by any relatives or friends of the persons deceased. Notice of intended repairs should reach the Chaplain not later than the 31st March 1882.

Name.	Rank or occupation.	Date of death.
1. Hayes, Thomas ...	Child, Horse Artillery ...	29th June 1813.
2. Black, George ...	Sergeant-Major, Kumaon Battalion ...	25th January 1814.
3. ... Henry ...	Sergeant, 14th Foot ...	22nd May 1820.
4. ... Thomas ...	Hospital Steward, 14th Foot ...	6th February 1819.
5. Bowden, W. ...	14th Foot ...	20th August (about 1820).
6. Brearley, John ...	8th Light Dragoons ...	10th August 1817.
7. Brown, Henry Outman ...	Son of Captain Brown, 8th Light Dragoons ...	24th February 1820.
8. Brown, Eleanor ...	Wife of Sergeant Brown, 14th Foot ...	12th October 1818.
9. Brutton, Frances Russell ...	Wife of Major Brutton, 8th Light Dragoons ...	25th January 1817.
10. Buck, Andrew ...	53rd Regiment ...	3rd April 1813.
11. Burke, Mary ...	Wife of Luke Burke, 67th Regiment ...	10th November 1816.
12. Bygrain, George ...	Lieutenant, 8th Light Dragoons ...	Illegible (about 1820).
13. Cockburn, George ...	24th Light Dragoons ...	31st August 1811.
14. Connelly, Lawrence ...	Pensioner, 53rd Regiment ...	9th December 1850.
15. Cox, Joshua Henry ...	Child, 14th Foot ...	19th August 1819.
16. Davis, Richard ...	Child, 8th Light Dragoons ...	4th March 1816.
17. Davis, Edward ...	Sergeant, 14th Foot ...	30th August 1819.
18. Devlin, Thos. ...	Infant son of W. Devlin, 8th Light Dragoons ...	6th October 1818.
19. Dixon, Simon ...	8th Light Dragoons ...	1817 (day illegible).
20. Downey, James ...	8th Light Dragoons ...	1817 (day illegible).
21. Farrell, Bernard ...	53rd Regiment ...	31st May 1813.
22. Font, John ...	67th Regiment ...	19th July 1817.
23. Franklin, Thomas ...	14th Regiment ...	24th August 1819.
24. French, John William ...	Son of John French, 14th Foot ...	28th August 1819.
25. Goodfellow, Christina ...	Child, 14th Foot ...	20th September 1825.
26. Goose, Charlotte Hoids ...	11th Dragoons ...	4th September 1825.
27. Grant, Charles ...	14th Foot ...	13th September 1818.
28. Guant, Mary ...	Wife of James Guant ...	13th November 1818.
29. Gwatkin, Theophila Palmer ...	Daughter of Edward Gwatkin ...	1st August 1813.
30. Hartman, Sarah ...	Wife of Fred. Hartman ...	20th September 1819.
31. Hendy, Cecelia ...	Child, Horse Artillery ...	3rd April 1817.
32. Heyman, Elizabeth ...	Daughter of Lieutenant Heyman, 8th Light Dragoons ...	21st September 1820.
33. Holiday, Eleanor ...	Child, 14th Foot ...	2nd August (about 1819).
34. Huggins, Alfred ...	Child, 14th Foot ...	13th June 1823.
35. Hunt, Anne ...	Child, 14th Foot ...	12th July 1819.
36. Jenkins, Robert ...	Child of Captain Jenkins ...	19th November 1824.
37. Johnson, John ...	Child, 24th Light Dragoons ...	9th September 1813.
38. Johnson, James ...	14th Foot ...	5th January 1820.
39. Johnson, John ...	14th Foot ...	13th September 1818.
40. King (illegible) ...	14th Foot ...	2nd December 1818.
41. Lang, Thomas ...	Apothecary ...	28th July 1819.
42. Leonard, Susannah ...	Daughter of Peter Leonard, 11th Foot ...	29th July 1818.
43. Leonard, Mary ...	Wife of Peter Leonard, 14th Foot ...	December 1818.
44. Little, John ...	8th Light Dragoons ...	15th August 1818.
45. Martin, Selina Elizabeth ...	Daughter of Lieutenant Martin, 52nd Native Infantry ...	6th September 1834.
46. Martin, Samuel ...	Son of Lieutenant Martin, 52nd Native Infantry ...	21st November 1834.
47. Martin, Charles Paton ...	Son of Lieutenant Martin, 52nd Native Infantry ...	15th October 1834.
48. Maycock, Eleanor ...	Wife of Hiram Maycock, 14th Foot ...	25th December 1819.
49. Maycock, George ...	Child of Hiram Maycock, 14th Foot ...	22nd August 1819.
50. McAndrews, John ...	8th Light Dragoons ...	Illegible
51. McKinnerley, James ...	Son of James McKinnerley, 8th Light Dragoons ...	14th April 1818.
52. Moore, Hannah ...	Wife of Joseph Moore, 14th Foot ...	August 1819.
53. Mulkein, William ...	Child of Lieutenant Mulkein, 11th Dragoon Guards ...	24th June 1823.
54. Over, Maria ...	Wife of Wm. Over, 14th Foot ...	9th May 1819.
55. Noulan, Mary ...	Wife of John Noulan, 18th Royal Irish ...	25th April 1850.
56. Pritchard, Alice ...	Wife of Corporal Pritchard, 14th Foot ...	24th November 1818.
57. Payne, William ...	14th Regiment ...	17th May 1821.
58. Sandham, Mariann ...	Wife of Surgeon B. L. Sandham, 11th Light Dragoons ...	19th January 1830.
59. Smith, Mary ...	Wife of Colonel Sergeant A. Smith, 29th Regiment ...	27th December 1850.
60. Smith, Oswald ...	Child, 11th Foot ...	31st July 1823.
61. Smail, Richard ...	14th Foot ...	25th August 1819.
62. Stewart, Daniel ...	Cornet, 24th Light Dragoons ...	4th December 1812.
63. Sullivan, James ...	67th Regiment ...	9th August 1817.
64. Tierney, Thomas ...	3rd Troop, Horse Brigade ...	3rd June 1820.
65. Vernon, John ...	Sergeant, 67th Regiment ...	31st October 1816.
66. Ward, Elizabeth ...	Daughter of Jonathan Ward, 11th Light Dragoons ...	24th July 1823.
67. Webb, Sarah ...	Wife of William Webb, 16th Regiment ...	20th August 1829.
68. Waller, William ...	Child, 14th Foot ...	July 1819.
69. Widders, William Frederick ...	Child, 11th Light Dragoons ...	16th September 1823.
70. Williams, William ...	Child, 14th Foot ...	19th July 1819.
71. Wing, Jemima ...	Wife of John Wing, 14th Foot ...	10th April 1818.
72. Wing, John ...	Child of John Wing, 14th Foot ...	28th September 1819.

* Only the pillars ruinous. Tomb requires simple repairs.

OSCAR D. WATKINS,
Chaplain of Meerut.

The 15th February 1882.

COMPTROLLER GEN

No. 2303.—Account of Revenue and Expenditure of the Government of India for the
N.B.—Amounts are converted into

REVENUE.	Estimates, 1881-82	April to Nov. 1880	April to Nov. 1881.	COMPARISON OF TWO YEARS	
				Increase.	Decrease.
	£	£	£	on	£
I.—Land Revenue	22,405,000	10,096,752	10,157,174	216,422	
II.—Tributes	705,000	417,206	250,414		157,792
III.—Forest	768,100	291,639	36,840	70,710	
IV.—Excise on Spirits and Drugs	3,031,000	2,006,075	2,210,939	204,864	
V.—Assessed Taxes	550,000	166,226	469,883	3,657	
VI.—Provincial Rates	2,863,000	1,492,634	1,568,961	75,727	
VII.—Customs	2,367,000	1,520,864	1,512,642		17,222
VIII.—Salt	7,153,000	1,405,490	4,851,167	419,667	
IX.—Opium	8,763,000	6,071,287	6,744,294	73,007	
X.—Stamps	3,290,000	2,171,825	2,202,573	30,748	
XI.—Registration	290,000	195,658	191,266		4,392
XII.—Mint	89,000	82,661	6,894		75,777
XIII.—Post Office	967,000	704,858	637,611		67,247
XIV.—Telegraph	452,600	327,192	263,147		64,045
XV.—Minor Departments	62,500	42,499	41,691		1,208
XVI.—Law and Justice	661,000	423,856	398,993		24,903
XVII.—Police	236,000	155,793	159,648	3,855	
XVIII.—Marine	210,000	122,001	130,555	7,951	
XIX.—Education	143,000	102,956	120,200	17,244	
XX.—Medical Services	87,700	23,421	21,789		1,633
XXI.—Stationery and Printing	61,000	34,861	31,263		3,598
XXII.—Interest	668,000	380,276	543,735	163,459	
XXIII.—Pensions	215,600	99,206	99,483	217	
XXIV.—Miscellaneous	265,000	152,154	216,021	93,867	
XXX.—Gain by Exchange	412,000	146,980	171,032	24,052	
TOTAL	56,758,500	33,547,053	33,707,703	1,160,650	...
XXV.—Railways	<i>Guaranteed Railways.</i>				
	Traffic Receipts	7,489,800	4,462,016	4,805,228	433,212
	<i>State Railways</i>				
	Gross Traffic Earnings	2,420,000	1,238,993	1,451,083	212,090
XXVI.—Irrigation and Navigation, including Net Traffic Receipts, &c., Madras Irrigation.	Net Traffic Receipts, East Indian	2,800,000	1,432,316	1,921,922	502,576
XXVII.—Other Public Works		902,500	412,265	506,770	91,505
XXVIII.—Provincial and Local Deficits		472,500	272,526	316,165	43,637
XXIX.—Army		821,000			
Military Operations in Afghanistan		777,000	698,408	614,311	247,014
		61,000	301,081		
TOTAL		72,502,300	41,053,609	43,717,293	2,093,684
England, including Army, Public Works, &c.		3,238,700	229,140	748,018	518,872
GRAND TOTAL		75,741,000	11,282,755	14,465,311	3,212,556

ERAL'S OFFICE.

Eighth month of the year 1891-82, as compared with the corresponding period of 1890-81.
sterling @ Rs. 10 to the Pound Sterling.

EXPENDITURE.	Estimates, 1881-82.	April to Nov. 1880.	April to Nov. 1881.	COMPARISON OF TWO YEARS.	
				Increase.	Decrease
	£	£	£	£	£
1.—Interest on Funded and Unfunded Debt	3,576,700	2,270,148	2,453,818	183,670	...
2.—Interest on Service Funds and other Accounts	407,300	226,729	296,203	69,474	...
3.—Refunds and Drawbacks	350,000	228,081	275,429	47,365	...
4.—Land Revenue	3,031,100	1,850,850	1,871,526	20,676	...
5.—Forests	565,800	231,432	245,647	54,215	...
6.—Excise on Spirits and Drugs	90,000	84,917	62,402	...	22,515
7.—Assessed Taxes	15,000	16,405	9,890	...	6,515
8.—Provincial Rates	48,000	31,811	33,419	1,605	...
9.—Customs	206,000	131,693	128,657	...	3,036
10.—Salt	428,000	252,416	314,786	62,370	...
11.—Opium	2,262,500	1,779,077	1,788,299	9,222	...
12.—Stamps	74,000	51,114	51,350	236	...
13.—Registration	186,000	116,913	117,846	933	...
14.—Mint	85,200	55,899	51,107	...	4,792
15.—Post Office	997,900	820,897	681,402	...	139,495
16.—Telegraph	459,600	237,706	259,518	21,812	...
17.—Administration	1,298,900	818,414	805,421	...	12,993
18.—Minor Departments	438,700	216,971	341,369	124,398	...
19.—Law and Justice	3,349,600	2,117,064	2,085,914	...	31,150
20.—Police	2,571,000	1,621,559	1,638,691	17,132	...
21.—Marine	432,100	248,862	245,836	...	3,026
22.—Education	1,057,600	631,188	679,698	48,510	...
23.—Ecclesiastical	168,200	102,663	105,816	3,153	...
24.—Medical Services	690,500	417,765	426,109	8,344	...
25.—Stationery and Printing	424,400	270,487	287,855	17,368	...
26.—Political	535,700	245,522	333,961	88,439	...
27.—Allowances and Assignments	1,881,900	977,452	949,559	...	27,893
28.—Civil Furlough and Absentee Allowances	4,000	3,700	2,720	...	980
29.—Superannuation, Retired and Compassionate Allowances	708,000	578,097	512,219	...	65,878
30.—Miscellaneous	251,000	169,354	172,800	3,446	...
31.—Famine Relief	1,500,000	166	44,456	44,300	...
37.—Loss by Exchange	3,475,000	1,974,454	2,202,906	228,452	...
TOTAL	31,568,700	18,784,792	19,516,639	731,847	...
<i>Guaranteed Railways.</i>					
Working Expenses	4,760,000	2,461,617	2,330,110	...	131,537
Land and Supervision	78,900	30,724	51,837	21,113	...
Interest in India	4,800	11,191	12,072	881	...
Surplus Profits paid to Railway Companies	165,000	300,431	57,609	...	242,825
32.—Railways					
<i>State Railways.</i>					
Working Expenses, &c.	2,086,000	2,262,755	1,737,735	...	991,262
Surplus Profits, &c., East Indian Railway	204,000		82,977		
Frontier Railways	386,000		—149,159		
33.—Irrigation and Navigation, including Madras Irrigation	1,351,700	541,729	612,635	70,906	...
Interest, &c.	4,939,400	1,850,836	2,201,610	350,724	...
34.—Other Public Works	114,000	...	...	...	...
35.—Provincial and Local Surpluses	12,302,000	13,059,995	8,438,907	...	3,328,138
36.—Army	2,271,000	1,322,940	1,322,940	...	...
Military Operations in Afghanistan					
TOTAL	60,322,400	39,331,143	35,815,912	...	3,518,231
<i>England, including Army, Public Works and Guaranteed Interest, &c.</i>	14,563,600	9,654,259	9,725,547	71,218	...
TOTAL	74,886,000	48,985,442	45,541,459	...	3,446,983
38.—Productive Public Works—					
Capital Expenditure in India	3,010,000	1,712,651	1,306,471	...	436,180
Ditto ditto in England	1,863,000	350,551	210,665	...	139,886
TOTAL	4,873,000	2,093,202	1,517,136	...	576,066
GRAND TOTAL	79,759,000	51,081,644	47,058,595	...	4,023,049

E. W. KELLNER,
Depy. Comptroller General.

J. WESTLAND,
Comptroller General.

Map of Bengal, 1874-75. *Price, if taken with the Report, Rs. 1; separately, price, Rs. 2; postage, 2 annas.*

The Bengal Administration Report for 1873-74. *Price, Rs. 2; postage, 5 annas.*

The Bengal Administration Report for 1872-73. *Price, Rs. 7-8; postage, 10 annas.*

Map of Bengal, 1873. *Price, if taken with the Report, Rs. 1; separately, price, Rs. 2; postage, 2 annas.*

Report of the Vizagapatam and Backergunge Cyclones of October 1876. By J. ELIOT, Esq., M.A., Meteorological Reporter to the Government of Bengal. *Price, Rs. 3; postage, 4 annas.*

The Winds of Northern India. By H. F. BLANFORD, Esq., Meteorological Reporter to Government. *Price, Rs. 1 per copy; postage, 2 annas.*

A Statistical Account of Bengal. By W. W. HUNTER, B.A., LL.D., Director-General of Statistics to the Government of India.

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|-------------|---|
| Vol. I. | 24-Pergunnas and Sundarbans. |
| Vol. II. | Nadiya and Jessore. |
| Vol. III. | Midnapur, Hughli and Howrah. |
| Vol. IV. | Bardwan, Bankura and Birbhum. |
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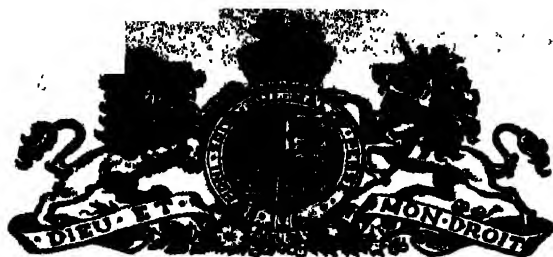
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CALCUTTA, SATURDAY, MARCH 11, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

DISSOLUTION OF PARTNERSHIP.

Mr. T. B. Middleton ceased to be a partner in our firm as from the 31st of December last.

GLOVER & Co.

BOMBAY.

The 22nd February 1882.

NOTICE.

Mr. Edward Bedford is admitted a partner in our firm in the contract for the construction of the Bhopal State Railway as from the 1st January 1882.

GLOVER & Co.

BOMBAY.

The 22nd February 1882.

NOTICE.

Mr. James Stevenson has been admitted a partner in our firm as from 1st February.

GRAHAM & Co.

The 10th March 1882.

PROMISSORY NOTES.

Lost

The Government Promissory Notes, No. 059378 for Rs. 1,000 and No. 086093 for Rs. 500, of the 4 per cent., originally standing in the name of person or persons (unknown), and last endorsed to Mr. Kanojee Rao Bin Deojee Goond, the proprietor, by whom they were never endorsed to any other person. Payment of the above Notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and the Residency Treasury at Indore, and application is about to be made for the issue of duplicates in favour of the proprietor.

KANOJEE RAO BIN DEOJEE GOOND,
Major of His Highness Maharajah Holkar's
Hoojrat Cavalry, Indore.

Lost or Stolen

On the 23rd January 1882, the Government Promissory Notes Nos. 12227, for Rs. 1,000, and 12228, for Rs. 4,000, each of the 4 per cent. of 1836-36, originally standing in the name of

Rajchunder Sur, after whose death power under Act XXVII of 1860 lay with Koonja Bihari Sur, and lastly such power lies jointly with Haridhan Sur and Srimatya Haridasi, the proprietors, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favor of the proprietors.

HARIDHAN SUR & SRIMATYA HARIDASI,

Katrong, District Hooghly.

The 9th March 1882.

Lost, Stolen, or Mislaid.

The Government Promissory Note, No. 086068, of the 4 per cent. Loan of 1842-43, for Rs. 500, originally standing in the name of the Bank of Bengal, and last endorsed to Caetano Gabriel de Souza, the proprietor, by whom it was never endorsed to any other person. Payment of the above Note and the interest thereupon have been stopped at the Public Debt Offices, Bombay and Calcutta, and application is about to be made for the issue of a duplicate in favour of the proprietor.

CARTANO GEL. DE SOUZA,

Badem, Serula, Goa,
or care of Mr. J. J. de Souza,
113, Cavel Street, Bombay.

BOMBAY.

The 18th February 1882.

Lost

The undermentioned Debentures of the Nagpore-Cluttisgarh Railway Loan (4½ per cent.) from the possession of the Tehsildar of Sihora, District Jabulpore, prior to their delivery to the owners. They have not been endorsed to any one by the owners :—

No. 000017,	for Rs. 200.
" 000050,	" 500.
" 000097,	" 500.
" 000098,	" 500.
" 000167,	" 500.
" 000178,	" 500.

C. H. GRACE, Lieut.-Col.,
Deputy Commissioner, Jabulpore.



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CALCUTTA, SATURDAY, MARCH 11, 1882.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1882, and is hereby promulgated for General information:—

ACT No. VI OF 1882.

THE INDIAN COMPANIES ACT, 1882.

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FIRST SCHEDULE.

SECOND SCHEDULE.

an Act for the incorporation, regulation and winding-up of Trading Companies and other Associations.

WHEREAS it is expedient to amend the law relating to the incorporation, regulation and winding-up of Trading Companies and other Associations; It is hereby enacted as follows:

PRELIMINARY.

1. This Act may be cited as "The Indian Companies Act, 1882":
 Short title. companies Act, 1882":
 it extends to the whole of
 Local extent. British India:
 it shall come into force on the first day of May,
 1882; and the time at which
 Commencement. it comes into force is herein-
 after referred to as the commencement of this Act.

2. On and from the commencement of this Act, the Indian Companies Act, 1866, shall be repealed. But such repeal shall not affect—

(a) the incorporation of any Company registered under the said Act or any Act thereby repealed;

(b) any right or privilege acquired or liability incurred under the said Act or any Act thereby repealed;

(c) table B in the schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.

And all references to the said Indian Companies Act, 1866, in Acts or Regulations passed before the commencement of this Act shall be read as if made to this Act, and all rules made, fees directed, resolutions passed and other things duly done under the same Act shall be deemed to be respectively made, directed, passed and done under this Act; and all Companies under the same Act shall be deemed to be Companies under this Act.

3. In this Act, unless there be something repugnant in the subject or context,—
 Interpretation-clause.

"Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses;

"Court" means the principal civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction;

"District Court" means the principal civil Court of original jurisdiction in a district, but does not include the High Court in the exercise of its ordinary original civil jurisdiction.

4. No Company, Association or Partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor General in Council, or by royal charter or Letters Patent; and no Company, Association or Partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

5. This Act is divided into nine Parts, relating to the following subject-matters:—

The first Part—to the constitution and incorporation of Companies and Associations under this Act;

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act;

The third Part—to the management and administration of Companies and Associations under this Act;

The fourth Part—to the winding-up of Companies and Associations under this Act;

The fifth Part—to the registration-office;

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations either with or without limited liability of the members thereof*), and Act No. VII of 1860 (*to enable Joint Stock Banking Companies to be formed on the principle of limited liability*), or either of them;

The seventh Part—to Companies authorized to register under this Act;

The eighth Part—to the application of this Act to unregistered Companies;

The ninth Part—to miscellaneous provisions.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

6. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Explanation.—Foreigners are persons within the meaning of this section, although the whole or any part of the business of the proposed Company is intended to be transacted out of British India.

7. The liability of the members of a Company
Mode of limiting liability of members. formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Where a Company is formed as a Limited Company, the liability of the directors or managers of such Company, or of the managing director, may, if so provided by the memorandum of association, be unlimited.

8. Where a Company is formed on the principle
Memorandum of association of a Company limited by shares. of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company with the addition of the word "limited" as the last word in such name;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established;

(d) a declaration that the liability of the members is limited;

(e) the amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount:

Subject to the following regulations:—

(f) that no subscriber shall take less than one share;

(g) that each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

9. Where a Company is formed on the principle
Memorandum of association of a Company limited by guarantee. of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up (hereinafter referred to as a Company limited by guarantee), the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company, with the addition of the word "limited" as the last word in such name;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established

(d) a declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

10. Where a Company is formed on the principle
Memorandum of association of an unlimited Company. of having no limit placed on the liability of its members (hereinafter referred to as an unlimited Company), the memorandum of association shall contain the following things (that is to say):—

(a) the name of the proposed Company;

(b) the part of British India in which the registered office of the Company is proposed to be situate;

(c) the objects for which the proposed Company is to be established.

11. The memorandum of association shall be
Signature and effect of memorandum of association. signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained, on the part of himself, his heirs, executors and administrators, a contract to observe all the conditions of such memorandum subject to the provisions of this Act.

12. Any Company limited by shares may so far
Power of certain Companies to alter memorandum of association. modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by special resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid up shares into stock; but, save as aforesaid, and save as hereinafter provided, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Reduction of Capital and Shares.

13. Any Company limited by shares may, by
Power to Company to reduce capital. special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital; but no such resolution for reducing the capital of any Company shall come into operation until an order of the Court is registered by the Registrar of joint stock Companies, as is hereinafter mentioned.

Explanation I.—The word "capital" includes paid up capital.

Explanation II.—The power to reduce capital conferred by this section includes a power to cancel any lost capital, or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the Company; and paid up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the Company; and, to the extent to which such liability is not extinguished or reduced, it shall be deemed to be preserved, notwithstanding anything hereinafter contained.

14. The Company shall, after the date of the passing of any special resolution for reducing its capital, add to its name, until such date as the Court may fix, the words "and reduced," as the last words in its name, and those words shall, until such date, be deemed to be part of the name of the Company.

15. A Company which has passed a special resolution for reducing its capital may apply to the Court by petition for an order confirming the reduction, and, on the hearing of the petition, the Court, if satisfied that, with respect to every creditor of the Company who, under the provisions of this Act, is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged or has determined, or has been secured as hereinafter provided, may make an order confirming the reduction on such terms and subject to such conditions as it deems fit.

When the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction; and it shall not be necessary, before the presentation of any petition under this section, to add, and the Court may, if it thinks fit so to do, dispense with the addition of, the words "and reduced," as mentioned in section fourteen.

In any case that the Court thinks fit so to do, it may require the Company to publish, in such manner as the Court thinks fit, the reasons for the reduction or such other information regarding the same as the Court may think expedient with a view to give proper information to the public in relation to such reduction, and if the Court thinks fit, the cause which led thereto.

16. Where a Company proposes to reduce its capital, every creditor of the Company who, at the date fixed by the Court, is entitled to any debt or claim which, if that date were the commencement of the winding-up of the Company, would be admissible in proof against the Company, shall be entitled to object to the proposed reduction, and to be entered

in the list of creditors who are so entitled to object.

The Court shall settle a list of such creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any creditor, the names of such creditors and the nature and amount of their debts or claims, and may publish notices fixing a certain day or days within which creditors of the Company who are not entered on the list are to claim to be so entered, or to be excluded from the right of objecting to the proposed reduction:

Provided that, when the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction.

17. Where a creditor whose name is entered on the list of creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the Court may (if it thinks fit) dispense with such consent on the Company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the Court may direct a sum of such amount as is hereinafter mentioned (that is to say):—

(a) If the full amount of the debt or claim of the creditor is admitted by the Company, or, though not admitted, is such as the Company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

(b) If the full amount of the debt or claim of the creditor is not admitted by the Company, and is not such as the Company are willing to set apart and appropriate, or if the amount is contingent or not ascertained, then the Court may, if it thinks fit, inquire into and adjudicate upon the validity of such debt or claim, and the amount for which the Company may be liable in respect thereof, in the same manner as if the Company were being wound up by the Court; and the amount fixed by the Court on such inquiry and adjudication shall be set apart and appropriated.

18. The Registrar of joint stock Companies, upon the production to him of an order of the Court confirming the reduction of the capital of a Company, and the delivery to him of a copy of the order and of a minute (approved by the Court), showing, with respect to the capital of the Company as altered by the order, the amount of such capital, the number of shares in which it is to be divided, and the amount of each share, and the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share, shall register the order and minute; and, on the registration, the special resolution confirmed by the order so registered shall take effect.

Notice of such registration shall be published in such manner as the Court may direct.

The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to the reduction of capital have been complied with, and that the capital of the Company is such as is stated in the minute.

19. The minute, when registered, shall be deemed to be substituted for the corresponding part of the memorandum of association of the Company, and shall be of the same validity, and subject to the same alterations, as if it had been originally contained in the memorandum of association; and, subject as in this Act mentioned, no member of the Company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute.

20. If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a Company under this Act is, in consequence of his ignorance of the proceedings taken with a view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and after such reduction the Company is unable, within the meaning of this Act, to pay to the creditor the amount of such debt or claim, every person who was a member of the Company at the date of the registration of the order and minute relating to the reduction of its capital shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the Company had commenced to be wound up on the day prior to such registration;

and, on the Company being wound up, the Court, on the application of such creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it thinks fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories of the Company among themselves.

21. A minute, when registered, shall be embodied in every copy of the memorandum of association issued after its registration; and, if any Company makes default in complying with the provisions of this section, it shall incur a penalty not exceeding ten rupees for each copy in respect of which such default is made; and every director and manager of the Company who know-

ingly and wilfully authorizes or permits such default shall incur the like penalty.

22. If any director, manager or officer of the Company wilfully conceals the name of any creditor of the Company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the Company, or if any director or manager of the Company abets, within the meaning of the Indian Penal Code, any such concealment or misrepresentation as aforesaid, every such director, manager or officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

23. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as to reduce its capital by cancelling any shares which, at the date of passing such resolution, have not been taken or agreed to be taken by any persons; and the provisions as to reduction of capital contained in the other sections of this Act shall not apply to any reduction made in pursuance of this section.

Sub-division of Shares.

24. Any Company limited by shares may, by special resolution, so far as to modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as, by sub-division of its existing shares or any of them, to divide its capital, or any part thereof, into shares of smaller amount than is fixed by its memorandum of association:

Provided that, in the sub-division of the existing shares, the proportion between the amount which is paid and the amount (if any) which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived.

25. The statement of the number and amount of the shares into which the capital of the Company is divided, contained in every copy of the memorandum of association issued after the passing of any such special resolution, shall be in accordance with such resolution; and any Company which makes default in complying with the provisions of this section shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly or wilfully authorizes or permits such default shall incur the like penalty.

Associations not for Profit.

26. Where any association which might be formed under this Act as a limited Company proves to be the Local Government that

it is formed for the purpose of promoting commerce, art, science, charity, or any other useful object, and that it is the intention of such association to apply the profits, if any, or other income of the association, in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may, by license under the hand of one of its Secretaries, direct such association to be registered with limited liability, without the addition of the word "limited" to its name; and such association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to the obligations by this Act imposed on limited Companies; with the exceptions that none of the provisions of this Act that require a limited Company to use the word "limited" as any part of its name, or to publish its name, or to send a list of its members, directors, or managers to the Registrar, shall apply to an association so registered.

The license by the Local Government may be granted upon such conditions and subject to such regulations as the Local Government thinks fit to impose; and such conditions and regulations shall be binding on the association, and may at the option of the Local Government be inserted in the memorandum and articles of association, or in both or one of such documents.

Calls upon Shares.

27. Nothing herein contained shall be deemed to prevent any Company under this Act, if authorized by its regulations as originally framed or as altered by special resolution, from doing any one or more of the following things, namely:—

(a) making arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid, and in the time of payment of such calls;

(b) accepting from any member of the Company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him, either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made;

(c) paying dividend in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others.

28. Every share in any Company shall be deemed

Manner in which shares are to be issued and held. issued and to be held subject to the payment of the whole amount thereof in cash, unless the same has been otherwise determined by a contract duly made in writing and filed with the Registrar of joint stock Companies at or before the issue of such shares.

Transfer of Shares.

29. A Company shall, on the application of the

Transfer may be registered as request of transferee. transferor of any share or interest in the Company, enter in its register of mem-

bers the name of the transferee of such share or interest in the same manner and subject to the same conditions as if the application for such entry were made by the transferee.

Share-warrants to Bearer.

30. In the case of a Company limited by shares, the Company, if authorized so to do by its regulations as originally framed or as altered by special resolution, and subject to the provisions of such regulations, may, with respect to any share which is fully paid up, or with respect to stock, issue under their common seal a warrant (hereinafter referred to as a share-warrant) stating that the bearer thereof is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on such shares or stock.

31. A share-warrant shall entitle the bearer thereof to the shares or stock specified therein; and such shares or stock may be transferred by the delivery of the share-warrant.

32. The bearer of a share-warrant shall, subject to the regulations of the Company, be entitled, on surrendering such warrant for cancellation, to have his name entered as a member in the register of members; and the Company shall be responsible for any loss incurred by any person by reason of the Company entering in its register of members the name of any bearer of a share-warrant in respect of the shares or stock specified therein without the share-warrant being surrendered and cancelled.

33. The bearer of a share-warrant may, if the regulations of the Company so provide, be deemed to be a member of the Company within the meaning of this Act, either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share-warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or manager of the Company in cases where such a qualification is prescribed by the regulations of the Company.

34. On the issue of a share-warrant in respect of any share or stock, the Company shall strike out of its register of members the name of the member then entered therein as holding such share or stock, as if he had ceased to be a member, and shall enter in the register the following particulars:—

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares or stock included in the warrant, distinguishing each share by its number;
- (c) the date of the issue of the warrant.

35. There shall be charged on every share-warrant a stamp-duty of an amount equal to three times the amount of the *ad valorem* stamp-duty which would be chargeable on an instrument transferring the shares or stock specified in the warrant if the consideration for the transfer were the nominal value of such shares or stock.

If a share-warrant is issued without being duly stamped, the Company is-
Penalty for issuing share-warrant not duly stamped.
every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the Company, shall forfeit the sum of five hundred rupees.

Change of Name.

36. Any Company under this Act, with the sanction of a special resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Explanation.—The issue of the certificate of incorporation is necessary to complete the change of name.

Articles of Association.

37. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by articles of association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient.

The articles shall be expressed in separate paragraphs, numbered consecutively. They may adopt all or any of the provisions contained in the table marked A in the first schedule hereto. They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered, and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the

purpose of enabling the Registrar to determine the fees payable on registration.

In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

38. In the case of a Company limited by shares, if the memorandum of association is not accompanied by articles of association, or, in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto, the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company, in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered.

39. The articles of association shall be printed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least.

When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto and as if such articles contained a contract on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to the provisions of this Act.

All monies payable by any member to the Company in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provisions.

40. The memorandum of association, and the articles of association, if any, shall be delivered to the Registrar of joint stock Companies hereinafter mentioned, who shall retain and register the same. It is not his duty to require evidence as to whether the several subscribers to a memorandum of association so delivered are competent to contract.

There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the table marked B in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the table marked C in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor General in Council may from time to time direct.

All fees paid to the said Registrar in pur-

suance of this Act shall be accounted for to Government.

41. Upon the registration of the memorandum of association, and of the articles of association in cases where articles of association are required by this Act or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a limited Company that the Company is limited: the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned.

A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

42. A copy of the memorandum of association, having annexed thereto the articles of association, if any, shall be forwarded to every member, at his request, on payment of such sum, not exceeding one rupee, as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and articles of association, if any, to a member in pursuance of this section, the Company so making default shall for each such offence incur a penalty not exceeding twenty rupees.

43. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires.

If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the sanction of the Registrar, change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or

commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

44. The shares or other interest of any member in a Company under this Act shall be moveable property capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or unmoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

45. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the register of members hereinafter mentioned; and every other person who has agreed with a Company under this Act to become a member of such Company, and whose name is entered on the register of members, shall be deemed to be a member of the Company.

46. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

47. Every Company under this Act shall cause to be kept in one or more books a register of its members, and there shall be entered therein the following particulars:—

(a) the names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(b) the date at which the name of any person was entered in the register as a member;

(c) the date at which any person ceased to be a member.

Where a share-warrant has been issued under section thirty, until the warrant is surrendered, the particulars mentioned in section thirty-four

shall be deemed to be the particulars which are required by this section to be entered in the register of members of a Company; and, on the surrender of a warrant, the date of such surrender shall be entered as if it were the date at which a person ceased to be a member.

Any Company acting in contravention of this section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this section continues, and every director or manager of the Company who knowingly and wilfully authorizes or permits such contravention shall incur the like penalty.

48. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting, or, if there is more than one ordinary general meeting in each year, the first of such ordinary general meetings, is held, are members of the Company. Such list shall state the names, addresses and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:—

(a) the amount of the capital of the Company and the number of shares into which it is divided;

(b) the number of shares taken from the commencement of the Company up to the date of the summary;

(c) the amount of calls made on each share;

(d) the total amount of calls received;

(e) the total amount of calls unpaid;

(f) the total amount of shares forfeited;

(g) the names, addresses and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the register, and shall be completed within seven days after such fourteenth day as is mentioned in this section; and a copy shall forthwith be forwarded to the Registrar of joint stock Companies.

49. After the issue by the Company of a share-warrant, the annual summary required by section forty-eight shall contain the following particulars (namely):—the total amount of shares or stock for which share-warrants are outstanding at the date of the summary, and the total amount of share-warrants which have been issued and surrendered respectively since the last summary was made, and the number of shares or amount of stock comprised in each warrant.

50. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of mem-

bers or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

51. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall, within fifteen days of such consolidation, division or conversion, give notice to the Registrar of joint stock Companies of the same, specifying the shares so consolidated, divided or converted.

52. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock and given notice of such conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the register of members hereby required to be kept by the Company and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list, instead of the amount of shares and the particulars relating to shares hereinbefore required.

53. No notice of any trust, express, implied or constructive, shall be entered on the register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

54. A certificate under the common seal of the Company, specifying any shares or stock held by any member of a Company, shall be *prima facie* evidence of the title of the member to the share or shares or stock therein specified.

55. The register of members, commencing from the date of the registration of the Company, shall be kept at the registered office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in general meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee, or such less sum as the Company may prescribe, for each inspection.

Every such member or other person may require a copy of such register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied.

If such inspection or copy is refused, the Com-

pany shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

Every director and manager of the Company who knowingly authorizes or permits such refusal shall incur the like penalty.

In addition to the above penalty any Judge of a High Court may by order compel an immediate inspection of the register.

56. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the Company is situate and in the local official Gazette, close the register of members for any time or times not exceeding in the whole thirty days in each year.

57. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital, within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and in the case of an increase of members, within fifteen days from the time at which such increase of members has been resolved on or has taken place; and the Registrar shall forthwith record the amount of such increase of capital or members.

If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

58. If the name of any person is fraudulently or without sufficient cause entered in, or omitted from, the register of members kept by any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original civil jurisdiction in the district or place in which the registered office of the Company is situate, apply for an order of the Court that the register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained.

The Court may in any proceeding under this section decide any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and whether there has or has not been default on the part of the Company; and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the register: Provided that the Court may direct an issue to be tried in which any question of law may be raised; and an appeal in the manner directed by the Code of Civil Procedure shall lie.

59. Whenever any order has been made for rectifying the register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

60. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Liability of Members.

61. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company and the costs, charges and expenses of the winding-up, and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following, (that is say):—

(a) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(b) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(c) No past member shall be liable to contribute to the assets of the Company unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(d) In the case of a Company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(e) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking

entered into on his behalf by the memorandum of association :

(f) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract :

(g) No sum due to any member of a Company in his character of a member, by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company ; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

Explanation 1.—The liability of past members is a liability to contribute to the general assets of the Company, against which assets creditors (at whatever time their debts may have been contracted) have equal rights.

Explanation 2.—In estimating the debts to which a past member is liable, all dividends paid on these debts under the winding-up must be deducted.

62. With respect to the contributions to be required in the event of the winding-up of a limited Company from any director or manager whose liability is unlimited, the following modifications shall be made in the last preceding section :—

(a) Subject to the provisions hereinafter contained, any such director or manager, whether past or present, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to contribute as if he were at the date of the commencement of such winding-up a member of an unlimited Company :

(b) No contribution required from any past director or manager who has ceased to hold such office for a period of one year or upwards prior to the commencement of the winding-up shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company :

(c) No contribution required from any past director or manager in respect of any debt or liability of the Company contracted after the time at which he ceased to hold such office shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company :

(d) Subject to the provisions contained in the regulations of the Company, no contribution required from any director or manager shall exceed the amount (if any) which he is liable to contribute as an ordinary member, unless the Court thinks it necessary to require such contribution in order to satisfy the debts and liabilities of the Company, or the costs, charges and expenses of the winding-up.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

63. Every Company under this Act shall have a registered office to which all communications and notices may be addressed. If any Company under this Act carries on business without having such an office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

64. Notice of the situation of such registered office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered office.

65. Every limited Company under this Act, whether limited by shares or by guarantee, shall print or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible, in the English language, and also, if the registered office be situate in a district beyond the local limits of the ordinary original civil jurisdiction of a High Court, in one of the vernacular languages used in such district, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements and other official publications of such Company, and in all bills of exchange, hundis, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

66. If any limited Company under this Act does not print or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed.

Every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty.

If any director, manager or officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company any bill

of exchange, hundi, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the Company.

Contracts.

67. Contracts on behalf of any Company under this Act may be made as follows (that is to say):—

(a) Any contract, which if made between private persons would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf of the Company in writing under the common seal of the Company; and such contract may be in the same manner varied or discharged:

(b) Any contract, which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company; and such contract may in the same manner be varied or discharged:

(c) Any contract, which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company; and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

68. Every limited Company under this Act shall keep a register of all mortgages and charges specifically affecting property of the Company, and shall enter in such register, in respect of each mortgage or charge, a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge.

If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every director, manager or other officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees.

The register of mortgages required by this section shall be open to inspection by any creditor or member of the Company at all reasonable times.

If such inspection is refused, any officer of the Company refusing the same, and every director and manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

The High Court or any Judge thereof may by order compel the performance of the duty imposed by this section on a limited Company, and in addition to the above penalty may by order compel an immediate inspection of the register.

Explanation.—Omission to register under this section a mortgage or charge does not render the same invalid. But the officers of the Company cannot avail themselves as such of a mortgage or charge specifically affecting property of the Company and not so registered.

69. Every limited banking Company, and every insurance Company, and every deposit, provident or benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first schedule hereto, or as near thereto as circumstances will admit; and a copy of such statement shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on.

If default is made in compliance with the provisions of this section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding eight annas.

70. Every Company under this Act and not having a capital divided into shares shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and shall send to the Registrar of joint stock Companies a copy of such register, and shall from time to time notify to the Registrar any change that takes place in such directors or managers.

71. If any Company under this Act and not having a capital divided into shares makes default in keeping a register of its directors or managers, or in sending a copy of such register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such directors or managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues; and every

director or manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

72. A promissory note, bill of exchange or hundis shall be deemed to have been made, drawn, accepted or endorsed on behalf of any Company under this Act, if made, drawn, accepted or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, drawn, accepted or endorsed by or on behalf or on account of the Company by any person acting under the authority of the Company.

73. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

Provisions for Protection of Members.

74. A general meeting of every Company under this Act shall be held once at the least in every year.

A balance-sheet shall be made out and filed with the Registrar of joint stock Companies within twelve months after the Company has been registered, and once at least in every year afterwards within twelve months from the filing of the balance-sheet immediately preceding; and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first schedule hereto, or as near thereto as circumstances admit.

And once at the least in every year the accounts of the Company shall be examined and the correctness of the last balance-sheet and its conformity with the law ascertained and certified by one or more auditor or auditors.

No balance sheet shall be filed with the Registrar unless and until its correctness and conformity with the law have been so ascertained and certified, and it has been laid before and adopted by the Company in general meeting.

If default is made in compliance with any of the provisions of this section, every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to a penalty of one thousand rupees.

Meetings.

75. Every Company formed under this Act after the commencement of this Act shall hold a general meeting within six months after its memorandum of association is registered;

and, if such meeting is not held, the Company shall be liable to a penalty not exceeding fifty rupees a day for every day after the expiration of such four months, until the meeting is held; and every director or manager of the Company and every subscriber of the memorandum of Association who knowingly authorizes or permits such default shall be liable to the same penalty.

76. Subject to the provisions of this Act and to the conditions contained in the memorandum of association, any Company formed under this Act or the Indian Companies Act, 1866, may, in general meeting, from time to time, by passing a special resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the articles of association, or in the table marked A in the first schedule, where such table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company.

Any regulations so made by special resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the articles of association, and shall be subject in like manner to be altered or modified by any subsequent special resolution.

Any limited Company formed under this Act or the Indian Companies Act, 1866, may by a special resolution, if authorized to do so by its regulations as originally framed or as altered by special resolution, from time to time modify the conditions contained in its memorandum of association so far as to render unlimited, from and after the date of such resolution, the liability of its directors or managers, or of the managing director. Such special resolution shall be of the same validity as if it had been originally contained in the memorandum of association, and a copy thereof shall be embodied in or annexed to every copy of the memorandum of association which is issued after the passing of the resolution.

77. A resolution passed by a Company under this Act shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed) at any general meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent general meeting, of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such resolution was first passed.

At any meeting mentioned in this section, unless a poll is demanded by at least five members, a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same.

Notice of any meeting shall, for the purposes of this section, be deemed to be duly given, and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

In computing the majority under this section when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

78. In default of any regulations as to voting, every member shall have one vote, and, in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto.

In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and, in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

79. A copy of every special resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of joint stock Companies and be recorded by him.

If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

80. Where articles of association have been registered, a copy of every special resolution for the time being in force shall be annexed to or embodied in every copy of the articles of association that may be issued after the passing of such resolution. Where no articles of association have been registered, a copy of every special resolution shall be forwarded in print to any member requesting the same on payment of one rupee or such less sum as the Company may direct.

If any Company makes default in complying with the provisions of this section or section seventy-six, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

81. Any Company under this Act may, by its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such attorney on behalf of the Company and under his seal shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

82. The Local Government may appoint one or more competent inspectors of Company by or to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following (that is to say):—

(a) In the case of a banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(b) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the register of the Company as members.

83. The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same.

The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any inspector or inspectors.

84. It shall be the duty of all officers and agents of the Company to produce for the examination of the inspectors all books and documents in their custody or power.

Any inspector may examine upon oath the officers and agents of the Company in relation to its business.

If any such officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each such offence.

85. Upon the conclusion of the examination, the inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs.

A copy shall be forwarded by the Local Government to the registered office of the Company, and a further copy shall, at the request of the mem-

bers upon whose application the inspection was made, be delivered to them or to any one or more of them.

All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

86. Any Company under this Act may, by a special resolution, appoint inspectors for the purpose of examining into the affairs of the Company.

The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in general meeting directs.

The officers and agents of the Company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Local Government.

87. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in such report.

88. Every prospectus of a Company, and every notice inviting persons to subscribe for shares in any joint stock Company, shall specify the dates and the names of the parties to any agreement enforceable by law which has been entered into by the Company, or the promoters, directors or trustees thereof, before the issue of such prospectus or notice (whether subject to adoption by the directors or the Company, or otherwise), and which might reasonably influence a person in determining whether he would or would not become a shareholder in the Company; and any prospectus or notice not specifying the same shall be deemed fraudulent on the part of the promoters, directors and officers of the Company knowingly issuing the same, as regards any person taking shares in the Company on the faith of such prospectus, unless he has had notice of such contract.

Notices.

89. Any summons, notice, order or other document required to be served upon the Company may be served by leaving the same, or sending it through the post by a registered letter addressed to the Company, at their registered office; and any notice to the Registrar of joint stock Companies

may be served by sending it to him through the post by a registered letter, or by delivering it to him or by leaving it for him at his office.

90. Every document to be served by post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and, in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the post office.

91. Any summons, notice, order or proceeding requiring authentication by the Company may be signed by any director, secretary or other authorized officer of the Company, and need not be under the common seal of the Company; and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

92. Every Company under this Act shall cause minutes of all resolutions and proceedings of general meetings of the Company, and of the directors or managers of the Company in cases where there are directors or managers, to be duly entered in books to be from time to time provided for the purpose; and any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings.

Until the contrary is proved, every general meeting of the Company or meeting of directors or managers in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had, and all appointments of directors, managers or liquidators shall be deemed to be valid, and all acts done by such directors, managers or liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Explanation.—Nothing in this section shall be deemed to give validity to acts done by a liquidator after his appointment has been shown to be invalid.

93. Where a limited Company is plaintiff in any suit, if it appears from the evidence adduced that there is reason to believe that, if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, any Judge having jurisdiction in the matter may require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

94. In any suit brought by the Company against any member to recover any call or other monies

due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Alteration of Forms.

95. The forms set forth in the second schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer.

The Governor General in Council may from time to time make such alterations in the tables and forms contained in the first schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said schedule mentioned, and in the forms in the second schedule, or make such additions to the last-mentioned forms, as he deems requisite.

Any such table or form, when altered, shall be published in the *Gazette of India*, and, upon such publication being made, such table or form shall have the same force as if it were included in the schedule to this Act; but no alteration made by the Governor General in Council in the table marked A contained in the first schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such table.

Arbitrations.

96. Any Company under this Act may from time to time, by writing under its common seal, agree to refer, and may refer, to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons, to whom the reference is made, power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the directors or other managing body of such Companies.

97. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions or stipulations thereof.

98. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

99. Where the Companies agree, the reference shall be made to a single arbitrator.

100. Except where the Companies agree that Reference to two or more arbitrators. the reference shall be made to a single arbitrator, the reference shall be made as follows, to wit:—

where there are two Companies, the reference shall be made to two arbitrators;

where there are three or more Companies, the reference shall be made to so many arbitrators as there are Companies.

101. Where there are to be two or more arbitrators, every Company shall appoint one of the arbitrators, and shall give notice in writing thereof to the other Company or Companies.

102. Where there are to be two or more arbitrators, if any of the Companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an arbitrator, may appoint an arbitrator. The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

103. Where the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

104. Where the Company, by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an arbitrator.

The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

105. When any appointment of an arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

106. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands

an impartial and qualified person to be their umpire.

107. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an umpire; and the umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators.

108. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

109. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their umpire, then, on the application of the Companies or any of them, the Local Government may appoint an umpire.

The umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators so failing.

110. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

111. Where there are two or more arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

112. The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath.

113. Except where and as the Companies otherwise agree, the arbitrator, and the arbitrators and the umpire respectively may proceed in the business

of the reference in such manner as he and they respectively shall think fit.

114. The arbitrator, and the arbitrators and the umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the arbitrator, or the arbitrators or the umpire shall think fit so to proceed.

115. The arbitrator, and the arbitrators and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred.

Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or, in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

116. The award of the arbitrator, or of the arbitrators or of the umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators or the umpire, shall be binding and conclusive on all the Companies.

117. Provided always that (except where and as the Companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

118. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

119. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered shall be done, omitted or suffered accordingly.

120. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and

the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

121. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the arbitrator, and the arbitrators and the umpire respectively.

122. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

123. On the application of any party interested, the submission to any such arbitration may be filed in the Court, High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

124. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

125. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful, in the case of the insolvency of any contributory, to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes situate outside the towns of Calcutta, Madras and Bombay.

126. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives,

heirs and devisees shall be liable in due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory; and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

127. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Winding-up by Court.

128. A Company under this Act may be wound up by the Court as hereinafter defined under the following circumstances (that is to say):—

(a) whenever the Company has passed a special resolution requiring the Company to be wound up by the Court;

(b) whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year;

(c) whenever the members are reduced in number to less than seven;

(d) whenever the Company is unable to pay its debts;

(e) whenever for any other reason of a like nature the Court is of opinion that it is just and equitable that the Company should be wound up.

129. A Company under this Act shall be deemed to be unable to pay its debts—

(a) whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor;

(b) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company is returned unsatisfied in whole or in part;

(c) whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

130. The expression "the Court" as used in this Part of this Act shall mean the principal Court having original civil jurisdiction in the place in

which the registered office of the Company is situate, unless in the regulations for the management of the Company it shall be stipulated that the Company, if wound up, shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Panjáb, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original civil jurisdiction.

The expression "debts" as used in this Part of this Act means debts actually due, of which the creditor could claim immediate payment, except in the case of a Company issuing or liable under policies of assurance upon human life within British India, or granting annuities upon human life within British India. In the case of such a Company (hereinafter called a life-assurance Company), the expression "debts," as so used, includes also contingent or prospective liability under policies and annuity and other existing contracts.

131. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories, of the Company, or by all or any of the above parties, together or separately.

The petition must allege facts which, if proved, will justify an order for winding-up the Company. Every order which may be made on any such petition shall operate in favour of all the creditors and all the contributories of the Company in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

In the case of a life-assurance Company the Court shall not give a hearing to the petition until security for costs for such amount as the Judge thinks reasonable is given, and until a *prima facie* case is also established to the satisfaction of the Judge; and, where the Company has an uncalled capital of an amount sufficient, with the future premiums receivable by the Company, to make up the actual invested assets equal to the amount of the estimated liabilities, the Court shall suspend further proceedings on the petition for a reasonable time to enable the uncalled capital, or a sufficient part thereof, to be called up; and, if at the end of the original or any suspended time for which the proceedings have been suspended such an amount has not been realised by means of calls as with the already invested assets is equal to the liabilities, an order shall be made on the petition as if the Company had been proved to be unable to pay its debts.

Explanation.—Nothing in this section authorizes the presentation of a petition by a member of a Company who is indebted to the Company in respect of a call made, or other moneys due.

132. No contributory of a Company under this Act shall be capable of presenting a petition for winding-up such Company unless the members of the Company

Contributory when not qualified to present winding-up petition.

are reduced in number to less than seven, or unless the shares in respect of which he is a contributory, or some of them, either were originally allotted to him, or have been held by him, and registered in his name, for a period of at least six months during the eighteen months previous to the commencement of the winding-up, or have devolved upon him through the death of a former holder:

Provided that, where a share has, during the whole or any part of the six months, been held by or registered in the name of the wife of a contributory either before or after her marriage, or by or in the name of any trustee for such wife, or for the contributory, such share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the contributory.

133. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

134. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act, and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit.

The Court may also at any time after the presentation of such petition, and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the Company.

135. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

136. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company except with the leave of the Court and subject to such terms as the Court may impose.

137. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of joint stock Companies, who shall make a minute thereof in his books relating to the Company.

Such order shall be deemed to be notice of discharge to the servants of the Company, except when the business of the Company is continued.

138. Such Court may, at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such

winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

139. When an order has been made for winding-up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

140. The Court may, as to all matters relating to the winding-up, have regard to the wishes of creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks fit, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard is to be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Official Liquidators.

141. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there may be appointed a person or persons, to be called an official liquidator or official liquidators.

The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidator or official liquidators.

In all cases, if more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act hereby required or authorized to be done by the official liquidator is to be done by all or any one or more of such persons.

The Court may also determine whether any, and what, security is to be given by any official liquidator on his appointment.

If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

A receiver shall not be appointed of assets in the hands of an official liquidator.

142. Any official liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an official liquidator appointed by the Court shall be filled up

by the Court. There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and, if more liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

143. The official liquidator shall be described by the style of the official liquidator of the particular Company in respect of which he is appointed, and not by his individual name. He shall take into his custody, or under his control, all the property, effects and actionable claims to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

144. The official liquidator shall have power, with the sanction of the Court, to do the following things:—

(a) to bring or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the Company;

(b) to carry on the business of the Company so far as may be necessary for the beneficial winding-up of the same;

(c) to sell the immoveable and moveable property of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels;

(d) to do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the Company's seal;

(e) to prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors;

(f) to draw, accept, make and endorse any bill of exchange, hundi or promissory note in the name and on behalf of the Company; also to raise, upon the security of the assets of the Company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making or endorsing of every such bill, hundi or note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof;

(g) to take out, if necessary, in his official name, letters of administration to the estate of any deceased contributory, and to do, in his official name, any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and, in all cases where he takes out letters of

administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the official liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties and privileges of the Administrators General of Bengal, Madras and Bombay respectively;

(h) to do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

145. The Court may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

146. The official liquidator may, with the sanction of the Court, appoint an attorney or vakil to assist him in the performance of his duties: Provided that, where the official liquidator is an attorney, he shall not appoint his partner, unless the latter consents to act without remuneration.

Ordinary Powers of Court.

147. As soon as may be after making an order for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in pursuance of section fifty-eight, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities existing at the date of the said order.

148. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of, or being liable to the debts of, others.

149. The Court may, at any time after making an order for winding-up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker or agent or officer of the Company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the official liquidator, any sum or balance, books, papers estate or effects which happen to be in his hands for the time being, and to which the Company is *prima facie* entitled.

150. The Court may, at any time after making an order for winding-up the Company, make an order on any contributory for the

time being settled on the list of contributories directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he, or the estate of the person whom he represents, may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this part of this Act.

The Court may, in making such order, when the Company is not limited, allow to such contributory, by way of set-off, any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits:

Provided that, when all the creditors of any Company, whether limited or unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

In the event of the winding-up of any limited Company, the Court, if it thinks fit, may make to any director or manager of such Company whose liability is unlimited the same allowance by way of set-off as under this section it may make to a contributory where the Company is not limited.

151. The Court may, at any time after making an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on, and order payment thereof by, all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves.

The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

152. The Court may order any contributory, purchaser or other person from whom money is due to the Company to pay the same into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the official liquidator instead of to the official liquidator; and such order may be enforced in the same manner as if it had directed payment to the official liquidator.

153. All monies, bills, hundis, notes and other securities paid and delivered into the Bank of Bengal, the Bank of Madras or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be

subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same as the Court may direct.

154. If any person made a contributory as Provision in case of representative contributory not paying monies ordered. personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereof of the monies due.

155. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due; and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

156. The Court may fix a certain day or certain days on or within which Court may exclude creditors not proving within certain time. creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

157. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto. Court to adjust rights of contributories.

158. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order Court to order costs. as to the payment out of the estate of the Company of the costs, charges and expenses incurred in winding-up any Company in such order of priority as the Court thinks just.

159. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order and the Company shall be dissolved accordingly. Dissolution of Company.

160. Any order so made shall be reported by Registrar to make minute of dissolution of Company. the official liquidator to the Registrar, who shall make a minute accordingly in his books of the dissolution of such Company.

161. If the official liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default. Penalty for not reporting dissolution of Company.

Extraordinary Powers of Court.

162. The Court may, after it has made an order for winding-up the Company, summon before it any officer of the Company, or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company. Power of Court to summon persons before it suspected of having property of Company.

If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination.

The Court may require any such officer or person to produce any documents in his custody or power relating to the Company. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

163. The Court may examine upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same. Examination of parties by Court.

164. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order. Power to arrest contributory about to abscond or to remove or conceal any of his property.

165. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate; and such proceedings may be instituted accordingly. Powers of Court cumulative.

Enforcement of, and Appeal from, Orders.

166. All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

167. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India, other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

168. Where any order or decree made by one Court is required to be enforced by another Court as hereinbefore provided, a certified copy of the order or decree so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made; and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

169. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding-up of a Company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of appeal.

170. In all proceedings under this Part of this Act, every Court, Judge and person judicially acting, and all other officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of any other Court, and also of the official seal of any other Court, when such seal is appended to any document made, issued or signed under the provisions of this Part of this Act, or any official copy thereof.

171. The Judges of the District Courts, who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any

Company is wound up in a High Court; and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company.

Every such Commissioner shall, in addition to any power of summoning and examining witnesses and requiring the production or delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses, and requiring the production or delivery of documents, and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

172. If any affidavit, affirmation or declaration, required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any colony, island, plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or declaration, or to any other document to be used for the purposes of this Part of this Act.

Voluntary Winding-up of Company.

173. A Company under this Act may be wound up voluntarily—

(a) whenever the period, if any, fixed for the duration of the Company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of association that the Company is to be dissolved, and the Company in general meeting has passed a resolution requiring the Company to be wound up voluntarily;

(b) whenever the Company has passed a special resolution requiring the Company to be wound up voluntarily;

(c) whenever the Company has passed an extraordinary resolution to the effect that it has been proved to its satisfaction that the Company cannot by reason of its liabilities continue its

business, and that it is advisable to wind up the same :

For the purposes of this Act any resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a special resolution as hereinbefore defined.

174. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing such winding-up.

Commencement of voluntary winding-up.

When the winding-up is in pursuance of a special resolution, it shall be deemed to commence at the time of the passing, under section seventy-seven, of the confirmatory resolution.

175. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alteration in the status of the members of the Company, taking place after the commencement of such winding-up, shall be void; but its corporate state and all its corporate powers shall, notwithstanding that its regulations otherwise provide, continue until the affairs of the Company are wound up.

Effect of voluntary winding-up on status of Company.

176. Notice of any special resolution or extraordinary resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local official Gazette, and also in some newspaper (if any) circulating in the place where the registered office of the Company is situated.

Notice of resolution to wind up voluntarily.

177. The following consequences shall ensue upon the voluntary winding-up of a Company :—

Consequence of voluntary winding-up.

(a) the assets of the Company shall be applied in satisfaction of its liabilities *pari passu* as they exist at the commencement of the winding-up, and subject thereto shall, unless the regulations of the Company otherwise provide, be distributed amongst the members according to their rights and interests in the Company :

(b) liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the assets :

(c) the Company in general meeting shall appoint such persons as it thinks fit to be liquidators, and may fix the remuneration to be paid to them

(d) if one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him :

(e) upon the appointment of liquidators, all the powers of the directors shall cease, except in so far as the Company in general meeting, or the liquidators, may sanction the continuance of such powers :

(f) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two :

(g) the liquidators may, without the sanction of the Court, exercise all powers by this Act given to the official liquidators :

(h) the liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories :

(i) the liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same :

(j) the liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

178. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the liquidators.

Effect of winding-up on share-capital of Company limited by guarantee.

179. A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an extraordinary resolution, delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators or any of them, and supplying any vacancies in the appointment of liquidators, or may, by a like resolution, enter into any arrangement with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised.

Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

180. Any arrangement which a Company about to be wound up voluntarily, or in the course of being wound up voluntarily, shall have entered into with its creditors shall be binding on the Company if sanctioned by an extraordinary

Arrangement when binding on creditors.

nary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is herein-after mentioned.

181. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

182. Where a Company is being wound up voluntarily, the liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise, as respects the enforcing of calls or in respect of any other matter, all or any of the powers which the Court might exercise if the Company were being wound up by the Court. Any such application may be made by motion. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

183. Where a Company is being wound up voluntarily, the liquidators may, from time to time, during the continuance of such winding-up, summon general meetings of the Company for the purpose of obtaining the sanction of the Company by special resolution or extraordinary resolution, or for any other purposes they think fit.

In the event of the winding-up continuing for more than one year, the liquidators shall summon a general meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding-up has been conducted, during the preceding year.

184. If any vacancy occurs in the office of liquidators appointed by the Company, by death, resignation or otherwise, the Company in general meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy; and a general meeting for the purpose of filling up such vacancy may be convened by the continuing liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing liquidator, if any, or by any contri-

butory of the Company, be determined by the Court.

185. If, from any cause whatever, there is no liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a liquidator or liquidators. The Court may also, on due cause shown, remove any liquidator and appoint another liquidator to act in the matter of a voluntary winding-up.

186. As soon as the affairs of the Company are fully wound up, the liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of: and thereupon they shall call a general meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the liquidators.

The meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting in the manner specified in section one hundred and seventy-six.

187. The liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held; and, on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved.

If the liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

188. All costs, charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the liquidators, shall be payable out of the assets of the Company in priority to all other claims.

189. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

190. Where a Company is in course of being wound-up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound-up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Winding-up subject to the Supervision of the Court.

191. When a resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

192. A petition praying wholly or in part that a voluntary winding-up shall continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

193. The Court may, in determining whether a Company is to be wound up altogether by the Court, or subject to the supervision of the Court, in the appointment of a liquidator or of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard shall be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

194. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional liquidator.

Any liquidator so appointed by the Court shall have the same powers, be subject to the same obligations and in all respects stand in the same position, as if he had been appointed by the Company.

The Court may, from time to time, remove any liquidator so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

195. Where an order is made for a winding-up subject to the supervision of the Court, the liquidator appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily.

Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court.

In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidators, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding-up subject to the supervision of the Court.

196. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other person, to be official liquidators.

Supplemental Provisions.

197. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up, shall, unless the Court otherwise orders, be void.

198. Where any Company is being wound up, all books, accounts and documents of the Company and of the liquidators shall, as between the contributories of the Company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

199. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the liquidator may be disposed of in the following way; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and, where the Company has been wound up voluntarily, in such way as the Company by an extraordinary resolution directs.

But, after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

200. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

201. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the liquidator may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

202. The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the liquidator to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

203. Where any compromise or arrangement shall be proposed between a Company which is, at the commencement of this Act or afterwards, in the course of being wound up either voluntarily or by or under the supervision of the Court, and the creditors of such Company, or any class of such creditors, it shall be lawful for the Court, in addition to any other of its powers, on the application in a summary way of any creditor or the liquidator, to order that a meeting of such creditors or class of creditors shall be summoned in such manner as the Court shall direct; and, if a majority in number, representing three-fourths in value, of such creditors or class of creditors present either in person or by proxy at such meeting shall agree to any arrangement or compromise, such arrangement or compromise shall, if sanctioned by an order of the Court, be

binding on all such creditors or class of creditors, as the case may be, and also on the liquidator and contributories of the said Company.

204. Where any Company is proposed to be, or is in the course of being, wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the liquidators of the first-mentioned Company may, with the sanction of a special resolution of the Company by whom they were appointed, conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, receive, in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of, or receive any other benefit from, the purchasing Company.

Any sale made, or arrangement entered into, by the liquidator in pursuance of this section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has not voted in favour of the special resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such special resolution in writing addressed to the liquidators or one of them, and left at the registered office of the Company not later than seven days after the date of the meeting at which such special resolution was passed, such dissentient member may, by writing addressed and left as last aforesaid, require the liquidator to do one of the following things as the liquidator may prefer (that is to say):—either to abstain from carrying such resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned; such purchase-money to be paid before the Company is dissolved, and to be raised by the liquidator in such manner as may be determined by special resolution.

No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to, or concurrently with, any resolution for winding-up the Company or for appointing liquidators; but, if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such resolution shall not be of any validity unless it is sanctioned by the Court.

205. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

206. When any dispute so directed to be settled by arbitration has arisen, then, unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred.

After any such appointment has been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation.

If for the space of fourteen days after any such dispute has arisen, and after a request in writing has been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters in dispute; and in such case the award or determination of such single arbitrator shall be final.

207. If, before the matters so referred are determined, any arbitrator appointed by either party die, or become incapable or refuse, or for seven days neglect, to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal or disability as aforesaid.

208. Where more arbitrators than one have been appointed, they shall, before entering upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ.

If such umpire die, or refuse, or for seven days neglect, to act, they shall forthwith, after such death, refusal or neglect, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

209. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath.

210. The costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpire, as the case may be.

211. On the application of either of the parties, the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

212. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put in force, without the leave of the Court, against the estate or effects of the Company after the commencement of the winding-up shall be void.

Nothing in this section applies to proceedings by the Government.

213. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property, which would, if made or done by or against any individual trader, be deemed, in the event of his insolvency, to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly.

For the purposes of this section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees, for the benefit of all its creditors, shall be void.

214. Where, in the course of the winding-up of any Company under this Act, it appears that any past or present director, manager, official or other liquidator, or any officer of such Company, has misapplied or retained in his own hands, or become liable or accountable for, any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any liquidator or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager or other officer, and compel him to repay any monies so misapplied or retained, or for which such officer has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misap-

plication, retainer, misfeasance or breach of trust, as the Court thinks just.

Explanation I.—The banker of a Company is not, as such, an officer within the meaning of this section.

Explanation II.—Proceedings cannot be taken under this section against the representatives of a deceased officer.

215. If any director, officer or contributory of any Company wound up under this Act destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any register, book of account or other document belonging to the Company, with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

216. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present director, manager, officer or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the official liquidators or the liquidators (as the case may be) to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

217. If any person, upon any examination upon oath authorized under this Act, or in any affidavit, deposition or solemn affirmation, in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years and shall also be liable to fine.

218. Where the High Court makes an order for winding-up a Company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court; and thereupon such District Court shall, for the purpose of winding-up the Company, be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding-up, all the jurisdiction and powers of the High Court.

219. If during the progress of a winding-up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court, the High Court may transfer the same to

such other Court, and thereupon the winding-up shall proceed in such other District Court.

PART V.

REGISTRATION-OFFICE.

220. The registration of Companies under this Act shall be conducted as follows (that is to say):—

(a) The Local Government may, after the sanction of the Governor General in Council to the creation of any such offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure:

(b) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, clerks and servants as aforesaid:

(c) The Local Government may from time to time determine the places at which offices for the registration of Companies are to be established, so that there be at all times maintained in each of the towns of Calcutta, Madras and Bombay at least one such office, and that no Company shall be registered except at an office within that part of British India in which, by the memorandum of association, the registered office of the Company is declared to be established:

(d) The Local Government may from time to time direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies:

(e) Every person may inspect the documents kept by the Registrar of joint stock Companies. There shall be paid for such inspection such fees as may be directed by the Local Government, not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may direct, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract:

(f) The existing Registrar, Assistant Registrars, clerks and other officers and servants in the office for the registration of joint stock Companies shall, during the pleasure of the Local Government, hold the offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government:

(g) There shall be paid to any Registrar, Assistant Registrar, clerk or servant that may hereafter be employed in the registration of joint stock Companies such salary as the Local Government

may, with the sanction of the Governor General in Council, direct :

(A) Whenever any act is herein directed to be done to or by the Registrar of joint stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of joint stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But, in the event of the Local Government altering the constitution of the existing registry-office, such act shall be done to or by such officer or officers, and at such place or places with reference to the local situation of the registered offices of the Companies to be registered, as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES ACTS.

221. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860, or either of them, in the same manner, in the case of a limited Company, as if such Company had been formed and registered under this Act as a Company limited by shares, and, in the case of a Company other than a limited Company, as if such Company had been formed and registered as an unlimited Company under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by special resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that such regulations are contained in the memorandum of association.

222. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act; with this qualification, that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

223. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

224. With the exceptions made in the next following section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament or Act of the Governor General in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

225. The following regulations shall be observed with respect to the registration of Companies under this Part of this Act (that is to say) :—

(a) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, and not being a joint stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof :

(b) No Company having the liability of its members limited by Act of Parliament or Act of the Governor General in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an unlimited Company, or as a Company limited by guarantee :

(c) No life-assurance Company existing at the time of the commencement of this Act, and no Company that is not a joint stock Company as hereinafter defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares :

(d) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present personally, or by proxy in cases where proxies are allowed by the regulations of the Company, at some general meeting summoned for the purpose :

(e) Where a Company, not having the liability of its members limited by Act of Parliament, or Act of the Governor General in Council, or by

Letters Patent, is about to register as a limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned general meeting :

(f) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

226. For the purposes of this Part of this Act, Definition of "joint stock Company." so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a joint stock Company shall be deemed to be a Company having a permanent paid up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such Company, when registered with limited liability under this Act, shall be deemed to be a Company limited by shares.

227. Previously to the registration, in pursuance of this Part of this Act, of any joint stock Company, there shall be delivered to the Registrar the following documents (that is to say) :—

(a) A list showing the names, addresses and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number ;

(b) A copy of any Act of Parliament or Act of the Governor General in Council, Royal Charter, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company ;

(c) If any such joint stock Company is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement

specifying the following particulars (that is to say):—

the nominal capital of the Company and the number of shares into which it is divided ;

the number of shares taken and the amount paid on each share ;

the name of the Company, with the addition of the word " limited " as the last word thereof ;

with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

228. Previously to the registration in pursuance of this Part of this Act of any Company not being a joint stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the directors or other managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor General in Council, Letters Patent, deed of settlement, contract of copartnership or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

229. Where a joint stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement, not more than six clear days before the day of registration.

230. The lists of members and directors and any other particulars relating to the Company hereby required to be delivered to the Registrar shall be verified by declaration of the directors of the Company delivering the same, or any two of them, or of any two other principal officers of the Company, made before a Justice of the Peace or a District Judge.

231. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a joint stock Company as hereinafter defined.

232. Every banking Company existing at the date of the passing of this Act which registers itself as a limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and

partnership firm having a banking account with the Company.

Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company.

In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

233. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a limited Company, or where, previously to its being registered as a limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor General in Council, or by Letters Patent.

234. Any Company authorized by this Part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "limited."

235. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the tables marked B and C in the first schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited; and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

236. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a limited or unlimited Company, as the case may be; and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

237. All such property, moveable and immovable, including all interests and rights in, to and out of

property, moveable and immovable, and including obligations and actionable claims, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

238. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of, such Company previously to such registration.

239. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid; but, in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

240. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and articles of association; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following (that is to say):—

(a) That table A in the first schedule to this Act shall not, unless adopted by special resolution, apply to any Company registered under this Act in pursuance of this Part thereof:

(b) That the provisions of this Act relating to the numbering of shares shall not apply to any joint stock Company whose shares are not numbered:

(c) That no Company shall have power to alter any provisions contained in any Act of Parliament, Act of the Legislative Council or Act of the Governor General in Council relating to the Company:

(d) That no Company shall have power, without the sanction of the Governor General in Council, to alter any provision contained in any Letters Patent relating to the Company :

(e) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply :

(f) Nothing herein contained shall authorize any Company to alter any such provisions contained in any deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act :

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor General in Council, deed of settlement, contract of copartnership, Letters Patent or other instrument constituting or regulating the Company.

241. The Court may, at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

242. Where an order has been made for winding-up a Company registered in pursuance of this Part of this Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with

against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

243. Subject as hereinafter mentioned, any Partnership, Association or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor General in Council, consisting of more than seven members and not registered under this Act, and hereinafter included under the term "unregistered Company," may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions :—

(1) An unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate, or, if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered office of the Company :

(2) No unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court :

(3) The circumstances under which an unregistered Company may be wound up are as follows (that is to say) :—

(a) whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs ;

(b) whenever the Company is unable to pay its debts ;

(c) whenever the Court is of opinion that it is just and equitable that the Company should be wound up :

(4) An unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(a) whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the secretary or some director or

principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor ;

(b) whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the secretary or some director, manager or principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not, within ten days after service of such notice, paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same ;

(c) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied ;

(d) whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

244. In the event of an unregistered Company

Who to be deemed a contributory in the event of Company being wound up. being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company.

Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid.

In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

245. The Court may, at any time after the

Power of Court to restrain further proceedings. making of an application for winding-up an unregistered Company, and before making an order for winding-up the Company, upon the

application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

246. Where an order has been made for winding-up an unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

247. If any unregistered Company has no Provision in case of power to sue and be sued in unregistered Company. a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims and rights into and out of property, moveable and immoveable, and including actionable claims, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company, or any part of such property, is to vest in the official liquidator or official liquidators by his or their official name or names ; and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the official liquidator or official liquidators may, in his or their official name or names, or in such name or names, and after giving such indemnity, as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

248. The provisions made by this Part of this Act with respect to unregistered Companies shall be deemed to be made in addition to, and not in restriction of, any provisions hereinbefore contained with respect to winding-up Companies by the Court.

The Court or official liquidator may, in addition to anything contained in this Part of this Act, exercise any powers or do any act in the case of unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act ; but an unregistered Company shall not, except in the event of its being wound-up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

MISCELLANEOUS PROVISIONS.

249. No Company under this Act shall have power to buy its own shares.

250. Where, previously to the commencement of this Act, an order has been made for winding-up a Company under the Indian Companies Act, 1866, or a resolution has been passed for winding-up a Company voluntarily, such Company shall be wound-up in the same manner and with the same incidents as if this Act were not passed; and, for the purposes of such winding-up, the Indian Companies Act, 1866, shall be deemed to remain in full force.

251. Where, previously to the commencement of this Act, any conveyance, mortgage-deed or other instrument has been made in pursuance of the Indian Companies Act, 1866, such instrument shall be of the same force as if this Act had not passed; and, for the purposes of such instrument, the Indian Companies Act, 1866, shall be deemed to remain in full force.

252. All offences under this Act may be tried by any Magistrate of the first class, unless the period of imprisonment to which the offender is liable exceeds that which such officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such officer, the offender shall be committed for trial before the Court of Session.

If any offence which by this Act is declared to be punishable by any penalty is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

253. Subject to the provisions hereinbefore contained, the Court may, in any proceedings under this Act, make such order as to costs as it thinks fit.

254. The High Court may from time to time make rules, consistent with this Act and with the Code of Civil Procedure, concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the subdivision of the shares of a Company.

255. In sections 1 and 18 of Act No. XXI of 1860 (*for the registration of Literary, Scientific and Charitable Societies*), the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of joint stock Companies under this Act or any Act for the time being in force.

256. Save as provided in sections one hundred and fifty-two and one hundred and fifty-three, nothing in this Act shall be deemed

to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in general meeting may prescribe.

Calls on Shares.

(4.) The directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5.) A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the monies due upon the shares held by him beyond the sums actually called for; and, upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register-book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, *A B*, of _____, in consideration of the sum of rupees _____ paid to me by *C D*

of _____, do hereby transfer to the said *C D* the share (or shares) numbered _____ standing in my name in the books of the Company, to hold unto the said *C D*, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said *C D*, do hereby agree to take the said share (or shares) subject to the same conditions. As witness our hands, the _____ day of _____

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place

appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in general meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The directors may, with the sanction of the Company previously given in general meeting, convert any paid up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interest, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The directors may, with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares; such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first general meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the directors may determine.

(30.) Subsequent general meetings shall be held, once at the least in every year, at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(32.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an extraordinary general meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(34.) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members amounting to the

required number, may themselves convene an extraordinary general meeting.

Proceedings at General Meeting.

(35.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(37.) No business shall be transacted at any general meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows, that is to say:—if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If, within one hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week, at the same time and place; and if, at such adjourned meeting, a quorum is not present, it shall be adjourned *sine die*.

(39.) The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the Company.

(40.) If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

(41.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43.) If a poll is demanded by five or more

members, it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the Company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or, if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form:—

Company, Limited.

I, _____, of _____,
being a member of the _____
Company, Limited, and entitled to
vote or _____ votes, hereby appoint
of _____, as my proxy, to vote for me and on
my behalf at the (ordinary or extraordinary, as
the case may be) general meeting of the Company
to be held on the _____ day of _____,
and at any adjournment thereof (or at any meet

ing of the Company that may be held in the year _____). As witness my hand, this
day of _____

Signed by the said _____ in the presence of

Directors.

(52.) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54.) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56.) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The office of director shall be vacated—
if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the Company;

if he becomes bankrupt or insolvent;

if he is punished under any of the penal provisions of the foregoing Act;

if he is concerned in or participates in the profits of any contract with the Company.

But the above rules shall be subject to the following exceptions:—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is director; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

Rotation of Directors.

(58.) At the first ordinary meeting after the registration of the Company, the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year, one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59.) The one-third or other nearest number to

retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring director shall be re-eligible.

(61.) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If, at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65.) The Company in general meeting may, by a special resolution, remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

(67.) The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

(68.) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall, in the exercise of the

powers so delegated, conform to any regulations that may be imposed on it by the directors.

(69.) A committee may elect a chairman of its meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

(70.) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and, in case of an equality of votes, the chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends.

(72.) The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The directors shall cause true accounts to be kept—

of the stock in trade of the Company;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

of the credits and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82.) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

Audit.

(83.) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84.) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85.) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

(86.) The auditors may be members of the Company; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Company; and no director or other officer of the Company is eligible during his continuance in office.

(87.) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88.) The remuneration of the first auditors shall be fixed by the directors: that of subsequent

auditors shall be fixed by the Company in general meeting.

(89.) Any auditor shall be re-eligible on his quitting office.

(90.) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91.) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92.) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Dr. Balance-sheet (a) of the Company made up to 18 Cr.

CAPITAL AND LIABILITIES.		PROPERTY AND ASSETS.	
	Rs.		Rs. Aa.
I. CAPITAL.			
1 The number of shares	SHOWING—	7 Immovable property—distinguishing—	
2 The amount paid per share	"	(a) Freehold, in 1	"
3 If any arrears of calls, the nature of the arrear and the names of the defaulters	"	(b) " buildings	"
4 The particulars of any forfeited shares	"	(c) Leasehold	"
5 The amount of loans on mortgages or debenture-bonds	SHOWING—	(d) Moveable property—distinguishing—	"
6 The amount of debts owing by the Company—distinguishing—	"	(i) Stock in trade	"
(a) Debts for which acceptances have been given	"	(ii) Plant	"
(b) Debts to tradesmen for supplies of stock in trade or other articles	"	The cost to be stated with deductions for depreciation in value as charged to the reserve fund or profit and loss	
(c) Debts for law-expenses	"	9 Debts considered good for which the Company hold bills or other securities	
(d) Debts for interest on debentures or other loans	"	10 Debts considered good for which the Company hold no security	
(e) Unclaimed dividends	"	11 Debts considered doubtful and bad	
(f) Debts not enumerated above	"	Any debt in which a creditor or other officer of the Company to be separately stated	
The amount set aside from profits to meet contingencies	SHOWING—	12 The nature of investment and rate of interest	
The disposable balance for payment of dividends, &c.	SHOWING—	13 The amount of cash, where lodged, and if bearing interest	
Claims against the Company not acknowledged as debts	"		
Monies for which the Company is contingently liable	"		
II. DEBTS AND LIABILITIES OF THE COMPANY.			
VI. RESERVE FUND.			
VII. PROFIT AND LOSS.			
CONTINGENT LIABILITIES.			

(a) See clauses 91 and 92 of the foregoing Table A

TABLE B.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company having a capital divided into shares.

	Rs.	A.	P.
For registration of a Company whose nominal capital does not exceed Rs. 20,000, a fee of ...	40	0	0
For registration of a Company whose nominal capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital; (that is to say)—			
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees ...	20	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 50,000 rupees up to 10,00,000 rupees ...	5	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 10,00,000 rupees ...	1	0	0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees, or part of 10,000 rupees, as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account, in the case of fees payable on an increase of capital after registration, the fees paid on registration.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ...	5	0	0

TABLE C.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company not having a capital divided into shares:—

	Rs.	A.	P.
For registration of a Company whose number of members, as stated in the articles of association, does not exceed 20	40	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100.			
For registration of a Company in which the number of members is stated in the articles of association to be unlimited, a fee of ...	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association ...	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The Capital of the Company is Rs. ,
divided into shares of each.
The number of shares issued is . Calls to

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

the amount of Rs. per share have been made,
under which the sum of Rs. has been
received.

The liabilities of the Company on the first day
of January (or July) were:—

Debts owing to sundry persons by the Company
Under decree, Rs.
On mortgages or bonds, Rs.
On notes, bills or hundis, Rs.
On other contracts, Rs.
On estimated liabilities, Rs.

The assets of the Company on that day were:—
Government securities [stating them],
Rs.

Bills of exchange, hundis and promissory
notes, Rs.

Cash at the bankers, Rs.

Other securities, Rs.

SECOND SCHEDULE.

(SEE SECTION 95.)

FORM A.

Memorandum of association of a Company limited
by shares.

1st.—The name of the Company is "The
Company, Limited."

2nd.—The registered office of the Company will
be situate in

3rd.—The objects for which the Company is
established are " and the doing all
such other things as are incidental or
conducive to the attainment of the above
object."

4th.—The liability of the members is limited.

5th.—The capital of the Company is Rs.
divided into shares of Rs.
each.

We, the several persons whose names and ad-
dresses are subscribed, are desirous of being formed
into a Company in pursuance of this memoran-
dum of association, and we respectively agree to
take the number of shares in the capital of the
Company set opposite our respective names:—

Names, addresses and de- scription of subscribers.	Number of shares taken by each subscriber.
1. A. B. of ...	
2. C. D. " ...	
3. E. F. " ...	
4. G. H. " ...	
5. I. J. " ...	
6. K. L. " ...	
7. M. N. " ...	
Total shares taken ...	

Dated the day of
Witness to the above signatures.
O. P. of

FORM B.

Memorandum and articles of association of a Company limited by guarantee, and not having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Mutual Calcutta Marine Association, Limited."

2nd.—The registered office of the Company will be situate in Calcutta.

3rd.—The objects for which the Company is established are "the mutual insurance of ships belonging to members of the Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1.	A.	B.	of
2.	C.	D.	"
3.	E.	F.	"
4.	G.	H.	"
5.	I.	J.	"
6.	K.	L.	"
7.	M.	N.	"

Dated the day of

Witness to the above signatures.
O. P. of

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first general meeting shall be held at such time, not being more than three months after

the incorporation of the Company, and at such place, as the directors may determine.

(5.) Subsequent general meetings shall be held at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year at such place as may be determined by the directors.

(6.) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(7.) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an extraordinary general meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(9.) Upon the receipt of such requisition, the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(11.) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows, that is to say:—if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty; with this limitation, that no quorum shall in any case exceed thirty.

(13.) If, within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting, if convened upon the requisition of the members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the following week, at the same time and place; and, if at such adjourned meeting a quorum

of members is not present, it shall be adjourned *sine die*.

(14.) The chairman (if any) of the directors shall preside as chairman at every general meeting of the Company.

(15.) If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of such meeting.

(16.) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his committee or other legal curator: if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

Company, Limited.

I, _____, of _____, being a member of the
Company, Limited, hereby appoint
_____, of _____, as my proxy,
to vote for me and on my behalf at the [ordinary
or extraordinary, as the case may be] general
meeting of the Company to be held on the
day of _____, and at any adjournment thereof

[or at any meeting of the Company that may
be held in the year _____].

As witness my hand, this _____ day of
_____. Signed by the said
in the presence of _____

Directors.

(25.) The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(26.) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The directors shall be elected annually by the Company in general meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted.)

Accounts.

(29.) The accounts of the Company shall be audited by a committee of five members, to be called the audit-committee.

(30.) The first audit-committee shall be nominated by the directors out of the body of members.

(31.) Subsequent audit-committees shall be nominated by the members at the ordinary general meeting in each year.

(32.) The audit-committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The audit-committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company.

They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may, in relation to such accounts, examine the directors or any other officer of the Company.

(34.) The audit-committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for ex-

planations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory; and such report shall be read together with the report of the directors at the ordinary meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally, or by sending it through the post in a letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an extraordinary resolution, as defined by The Indian Companies Act, 1882, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses and Descriptions of Subscribers.

- | | | | |
|----|----------|-----|-----------|
| 1. | A. B. of | ... | Merchant. |
| 2. | C. D. of | ... | " |
| 3. | E. F. of | ... | " |
| 4. | G. H. of | ... | " |
| 5. | I. J. of | ... | " |
| 6. | K. L. of | .. | " |
| 7. | M. N. of | ... | " |

Dated the day of 18 .

Witness to the above signatures.

O. P. of

FORM C.

Memorandum and articles of association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Hotel Company, Limited."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the Company in general meeting, reduce the amount of shares.

3. The directors may, with the sanction of the Company in general meeting, cancel any shares belonging to the Company.

4. All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by each subscriber.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	

Total shares taken

Dated the day of 18 .

Witness to the above signatures.

O. P. of

Memorandum and articles of association of an unlimited Company having a capital divided into shares.

Memorandum of Association.

1st.—The name of the Company is "The Patent Company."

2nd.—The registered office of the Company will be situate in

3rd.—The objects for which the Company is established are "the working of a patent method of , of which method O. P. of is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Subscribers.

1. *A. B.* of
2. *C. D.* of
3. *E. F.* of
4. *G. H.* of
5. *I. J.* of
6. *K. L.* of
7. *M. N.* of

Dated the day of 18 .

Witness to the above signatures.

Q. R. of

*Articles of Association to accompany the preceding
Memorandum of Association.*

Capital of the Company.

The capital of the Company is twenty thousand rupees divided into twenty shares of one thousand rupees each.

Application of Table A.

All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number

of shares in the capital of the Company set opposite our respective names.

Names, addresses and descriptions of subscribers.	Number of shares taken by subscribers.
1. <i>A. B.</i> of	
2. <i>C. D.</i> of	
3. <i>E. F.</i> of	
4. <i>G. H.</i> of	
5. <i>I. J.</i> of	
6. <i>K. L.</i> of	
7. <i>M. N.</i> of	
Total shares taken	

Total shares taken

Dated the day of 18 .

Witness to the above signatures.

Q. R. of

FORM E.

As required by the second part of the foregoing Act.

**Summary of capital and shares of the
Company made up to the day of
Nominal capital Rs.**

divided into _____ shares of Rs. _____ each.

Number of shares taken up to the day of

There has been called up on each share Rs.

Total amount of calls received Rs.

Total amount of calls unpaid Rs.

List of persons holding shares in the
Company on the day of and
of persons who have held shares therein at any
time during the year immediately preceding the
said day of showing their
names and addresses and an account of the shares
so held.

[illegible]

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1882, and is hereby promulgated for general information:—

ACT No. VII OF 1882.

An Act to amend the law relating to Powers-of-Attorney.

For the purpose of amending the law relating to Powers-of-Attorney; it is hereby enacted as follows:—

- | | |
|---------------|---|
| Short title. | 1. This Act may be called |
| Act, 1882": | "The Powers-of-Attorney |
| Local extent. | It applies to the whole of British India; |
| Commencement. | and it shall come into force on the first day of May, 1882. |
2. The donee of a power-of-attorney may, if he thinks fit, execute or do any assurance, instrument or thing in and with his own name and signature, and his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument and thing so executed and done, shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the donor thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

3. Any person making or doing any payment or act in good faith, in pursuance of a power-of-attorney, shall not be liable in respect of the payment or act by reason that, before the payment or act, the donor of the power had died or become lunatic, of unsound mind, or bankrupt or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency or revocation was not, at the time of the payment or act, known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had

against the payer, if the payment had not been made by him.

This section applies only to payments and acts made or done after this Act comes into force.

4. (a) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court within the local limits of whose jurisdiction the instrument may be.

(b) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited; and a certified copy thereof shall be delivered out to him on request.

(c) A copy of an instrument so deposited may be presented at the office and may be stamped or marked as a certified copy, and, when so stamped or marked, shall become and be a certified copy.

(d) A certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument and of the deposit thereof in the High Court.

(e) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the Local Government, the fees to be taken under clauses (a), (b) and (c).

(f) Throughout British Burma, the Court of the Recorder of Rangoon shall, for the purposes of this section, be deemed to be the High Court.

(g) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

5. A married woman, whether a minor or not, shall, by virtue of this Act, have power, as if she were unmarried and of full age, by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument or doing any other act which she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

6. The Trustees and Mortgagees Powers Act, Act XXVIII of 1866, section 39, is hereby repealed.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March, 1882, and is hereby promulgated for general information:—

ACT NO. VIII OF 1882.

An Act to amend the Indian Penal Code.

For the purpose of amending the Indian Penal Code; It is hereby enacted
Preamble. as follows:—

1. In the second clause of section 40 of the said Code, before the figure "109,"
Amendment of section 40, clause 2, of Indian Penal Code. the figures "64, 65, 66, 71," shall be inserted.

2. In section 64 of the said Code, for the first twelve words, the following shall be substituted, namely:—
Amendment of section 64 of same Code.

"In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,

"and in every case of an offence punishable with fine only, in which the offender is sentenced to a fine."

3. In section 67, after the words "fine only," the words "the imprisonment which the Court imposes in default of payment of the fine shall be simple, and" shall be inserted.
Amendment of section 67 of same Code.

4. To section 71 of the said Code, the following clause shall be added:—
Addition to section 71 of same Code.

"Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

"where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

"the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences."

5. In section 73 of the said Code, for the words "be less than a" the words "shall not exceed one" shall be substituted.
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6. In section 214 of the said Code, for the Exception, the following shall be substituted, namely:—
New Exception to section 214 of same Code.

"Exception.—The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded."

7. In section 309 of the said Code, for the last seven words the words "or with fine or with both" shall be substituted.
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8. In section 335 of the said Code, before the word "causes" the word "voluntarily" shall be inserted.
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9. In section 410 of the said Code, after the words "designated as 'stolen property'" the following words shall be inserted, namely:—"whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without British India"; and the words "offence of" shall be omitted.
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10. In section 435 of the said Code, after the words "or upwards" the following words shall be inserted, namely:—
Addition to section 435 of same Code.

"or (where the property is agricultural produce) ten rupees or upwards."

11. This Act extends to the whole of British India; and shall come into force on the first day of January, 1883.
Local extent.
Commencement.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March, 1882, and is hereby promulgated for general information :—

ACT No. IX OF 1882.

An Act to amend the Prisoners' Act, 1871.

WHEREAS it is expedient to amend Act No. V of 1871 (*to consolidate the laws relating to Prisoners confined by order of a Court*) ; It is hereby enacted as follows :—

1. This Act may be called "The Prisoners' Act Amendment Act, 1882" ;
- Short title. it extends to the whole of British India ;
- Local extent. and it shall come into force on the first day of January, 1883.
- Commencement.

Section substituted for section 33, Act V of 1871.

2. For section thirty-three of the said Act the following shall be substituted (namely) :—

" 33. The Governor General in Council may, from time to time, appoint places within British India to which persons sentenced to transportation shall be sent : and the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence."

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 6th March, 1882, and is hereby promulgated for general information :—

ACT No. X OF 1882.

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An Act to consolidate and amend the law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:—

PART I. PRELIMINARY.

CHAPTER I.

1. This Act may be called "The Code of Criminal Procedure, 1852": and shall come into force on the first day of January, 1883;

It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure proscribed, by any other law now in force, or shall apply to—

(a) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;

(b) any officer duly authorized to try petty offences in military bazars at cantonments and stations occupied by the troops of the Presidencies of Fort St. George and Bombay respectively;

(c) heads of villages in the Presidency of Fort Saint George; or

(d) village Police-officers in the Presidency of Bombay;

(e) and nothing in sections 174, 175 and 176 shall apply to the police in the town of Madras.

2. On and from the first day of January, 1883, the enactments mentioned in the first schedule shall be repealed to the extent specified in the third column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the first day of January, 1883, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

3. In every enactment passed before this Code comes into force, in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act No. XXV of 1861, or Act No. X of 1872, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate", "Subordinate Magistrate, first class", and "Subordinate Magistrate, second class", shall respectively be deemed to mean "Magistrate of the first class", "Magistrate of the second class", and "Magistrate of the third class"; the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate", the expression "Magistrate of the district" shall be deemed to mean "District Magistrate", and the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate."

4. In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

(a) "Complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence; but does not include the report of a Police-officer:

(b) "Investigation" includes all the proceedings under this Code for the collection of evidence conducted by the police or by any person (other than a Magistrate or Police-officer) who is authorized by a Magistrate in this behalf:

(c) "Inquiry" includes every inquiry conducted under this Code by a Magistrate or Court:

(d) "Judicial proceeding" means any proceeding in the course of which evidence is or may be legally taken:

(e) "Writing" and "written" include "printing", "lithography", "photography", "engraving", and every other mode in which words or figures can be expressed on paper or on any substance:

(f) "Sub-division" means a sub-division made under this Code of a District:

(g) "Province" means the territories for the time being under the administration of any Local Government:

(h) "Presidency-town" means the local limits for the time being of the ordinary original civil juris-

dition of the High Court of Judicature at Fort William, Madras or Bombay :

(i) "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Panjáb and the Recorder of Rangoon :

In other cases "High Court" means the highest Court of criminal appeal or revision for any local area ;

or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf :

(j) "Chief Justice" includes also the senior Judge of a Chief Court :

(k) "Advocate General" includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf :

(l) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown :

(m) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor ; and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction :

(n) "Pleader" used with reference to any proceeding in any Court, means a pleader authorized under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakíl and an attorney of a High Court so authorized, and (2) any mukhtár or other person appointed with the permission of the Court to act in such proceeding :

(o) "Police-station" means any post declared, generally or specially, by the Local Government to be a Police-station for the purposes of this Code, and includes any local area specified by the Local Government in this behalf ; and "Officer in charge of a Police-station" includes, when the officer in charge of the Police-station is absent therefrom or unable from illness to perform his duties, the Police-officer present at the Police-station who is next in rank to such officer and is above the rank of constable, or, when the Local Government so directs, any other Police-officer so present :

(p) "Offence" means any act or omission made punishable by any law for the time being in force :

(q) "Cognizable offence" means an offence for, and "cognizable case" means a case in, which a Police-officer, within or without the Presidency-towns, may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant :

"Non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a Police-officer, within or without the Presidency-towns, may not arrest without warrant :

(r) "Bailable offence" means an offence shewn as bailable in the second schedule, or which is made bailable by any other law for the time being in force ; and "non-bailable offence" means any other offence :

(s) "Warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months :

(t) "Summons-case" means a case relating to an offence not so punishable :

(u) "European British subject" means—

(1) any subject of Her Majesty born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand, or in the Colony of the Cape of Good Hope or Natal ;

(2) any child or grand-child of any such person by legitimate descent :

(v) "Chapter" means a chapter of this Code ; and "Schedule" means a schedule hereto annexed :

(w) "Place" includes also a house, building, tent and vessel.

Words referring to acts done extend also to illegal omissions ; and

all words and expressions used herein and defined in the Indian Penal Code, and meaning as in Penal Code, shall be deemed to have the meanings respectively attributed to them by that Code.

5. All offences under the Indian Penal Code shall be inquired into and tried according to the provisions hereinafter contained ; and all offences under any other law shall be inquired into and tried according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of inquiring into or trying such offences.

PART II. CONSTITUTION AND POWERS OF CRI- MINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely :—

- I.—Courts of Session :
- II.—Courts of Presidency Magistrates :
- III.—Courts of Magistrates of the first class :
- IV.—Courts of Magistrates of the second class :
- V.—Courts of Magistrates of the third class.

B.—Territorial Divisions.

7. Every Province (excluding the Presidency-towns) shall be a Sessions Division, or shall consist of Sessions Divisions ;

and every Sessions Division shall, for the purposes of this Code, be a District or consist of Districts.

The Local Government may alter the limits, or, with the previous sanction of the Governor General in Council, the number, of such Divisions and Districts.

The Sessions Divisions and Districts existing when this Code comes into force shall be Sessions Divisions and Districts respectively, unless and until they are so altered.

Every Presidency-town shall, for the purposes of this Code, be deemed to be a District.

8. The Local Government may divide any District outside the Presidency-towns into Sub-divisions, or make any portion of any such District a Sub-division, and may alter the limits of any Sub-division.

All existing Sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the Presidency-towns.

9. The Local Government shall establish a Court of Session for every Sessions Division, and appoint a Judge of such Court.

It may also appoint Additional Sessions Judges, Joint Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

10. In every District outside the Presidency-towns, the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the District, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

12. The Local Government may appoint as Subordinate Magistrates many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any District outside the Presidency-towns ; and the Local Government, or the District Magistrate subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such District.

13. The Local Government may place any Magistrate of the first or second class in charge of a Sub-division, and relieve him of the charge as occasion requires.

Such Magistrates shall be called Sub-divisional Magistrates.

The Local Government may delegate its powers under this section to the District Magistrate.

14. The Local Government may confer upon any person all or any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the Presidency-towns.

Such Magistrates shall be called Special Magistrates.

With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by the first paragraph of this section.

No powers shall be conferred under this section on any Police-officer below the grade of Assistant District Superintendent, and no powers shall be so conferred except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

15. The Local Government may direct any two or more Magistrates in any place outside the Presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrible by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as the Local Government thinks fit.

Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members who is present taking part in the proceedings as a member of the Bench belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

16. The Local Government may, or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any District respecting the following subjects:—

- (a) the classes of cases to be tried;
- (b) the times and places of sitting;
- (c) the constitution of the Bench for conducting trials;
- (d) the mode of settling differences of opinion which may arise between the Magistrates in session.

17. All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Magistrates and Benches; and

every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a Sub-division shall be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may,

from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of Presidency Magistrates.

18. The Local Government shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the Presidency-towns, and shall appoint one of such persons to be Chief Magistrate for each such town.

Any two or more of such persons may (subject to the rules made by the Chief Magistrate under the power hereinafter conferred) sit together as a Bench.

19. Every Presidency Magistrate shall exercise jurisdiction in all places within the Presidency-town for which he is appointed and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

20. Every Presidency Magistrate in the town of Bombay shall exercise all jurisdiction which, under any law in force immediately before the first day of April, 1877, was exercised in that town by the Court of Petty Sessions:

Provided that appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

21. Every Chief Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

- (a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;
- (b) the times and places at which Benches of Magistrates shall sit;
- (c) the constitution of such Benches; and
- (d) the mode of settling differences of opinion which may arise between Magistrates in session.

E.—Justices of the Peace.

22. The Governor General in Council, so far as regards the whole or any part of British India outside the Presidency-towns,

Justices of the Peace for the Mufassal.

and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification

23. The Governor General in Council or the Local Government, so far as regards the town of Calcutta,

and the Local Government, so far as regards the towns of Madras and Bombay,

may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom such Governor General in Council or Local Government (as the case may be) thinks fit.

24. Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 22 by the Governor General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

25. In virtue of their respective offices, the Governor General, the Ordinary Members of the Council of the Governor General, the Judges of the High Courts and the Recorder of Rangoon are Justices of the Peace within and for the whole of British India, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

H.—Suspension and Removal.

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government:

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor General in Council only shall not be suspended or removed from office by any other authority.

27. The Governor General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it.

CHAPTER III.

POWERS OF COURTS.

A.—Description of Offences cognisable by each Court.

28. Subject to the other provisions of this Code, any offence under the Indian Penal Code may be tried by the High Court or Court of Session or by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

29. Any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

When no Court is so mentioned, it may be tried by the High Court or by any Court constituted under this Code: Provided that—

(a) no Magistrate of the first class shall try any such offence which is punishable with imprisonment for a term which may exceed seven years;

(b) no Magistrate of the second class shall try any such offence which is punishable with imprisonment for a term which may extend to three years; and

(c) no Magistrate of the third class shall try any such offence which is punishable with imprisonment for a term which may extend to one year.

30. In the territories respectively administered by the Lieutenant-Governor of the Panjáb and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg and Assam, and in those parts of the other Provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate with power to try as a Magistrate all offences not punishable with death.

B.—Sentences which may be passed by Courts of various Classes.

31. A High Court may pass any sentence authorized by law.

A Sessions Judge, Additional Sessions Judge or Joint Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding three years passed by an Assistant Sessions Judge shall be subject to confirmation by the Sessions Judge.

32. The Courts of Magistrates may pass the following sentences, namely:—

(a) Courts of Presidency Magistrates and of Magistrates of the first class: Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law;

Fine not exceeding one thousand rupees; Whipping.

(b) Courts of Magistrates of the second class: Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law;

Fine not exceeding two hundred rupees; Whipping.

(c) Courts of Magistrates of the third class: Imprisonment for a term not exceeding one month;

Fine not exceeding fifty rupees.

The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

No Court of any Magistrate of the second class shall pass a sentence of whipping unless he is specially empowered in this behalf by the Local Government.

33. The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law in case of such default: Provided that the term is not in excess of the Magistrate's powers under this Code:

Provided also that in no case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

34. The Court of a District Magistrate specially empowered under section 30 may pass any sentence of imprisonment for a term not exceeding seven years, including such solitary confinement as is authorized by law, or of fine, or of whipping, or of any combination of these punishments authorized by law.

But any sentence of imprisonment for a term exceeding three years passed by any such Court shall be subject to the confirmation of the Sessions Judge.

35. When a person is convicted, at one trial, of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict: such punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct.

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Maximum term of punishment. Provided as follows:—

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(b) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

For the purpose of confirmation or appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

C.—Ordinary and Additional Powers.

36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers".

37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

D.—Conferment, Continuance and Cancellation of Powers.

39. In conferring powers under this Code, the Local Government may by order empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles.

Aid and information to Magistrates, the police and persons making arrests.

Every such order shall take effect from the date on which it is communicated to the person so empowered.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred.

41. The Local Government may withdraw any Powers may be cancelled. powers conferred under this Code on any person by it or by any officer subordinate to it.

PART III. GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

42. Every person is bound to assist a Magistrate or Police-officer reasonably demanding his aid, whether within or without the Presidency-towns,

(a) in the taking of any other person whom such Magistrate or Police-officer is authorized to arrest;

(b) in the prevention of a breach of the peace, or of any injury attempted to be committed to any railway, canal, telegraph or public property; or

(c) in the suppression of a riot or an affray.

43. When a warrant is directed to a person other than a Police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

44. Every person, whether within or without the Presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under the following sections of the Indian Penal Code (namely) 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or Police-officer of such commission or intention.

45. Every village-headman, village-watchman, Village-headmen, land-holders and others bound to report certain matters. village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest Police-station, whichever is the nearer, any information which he may obtain respecting—

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, watchman or Police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(b) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(c) the commission of or intention to commit any non-bailable offence in or near such village;

(d) the occurrence therein of any sudden or unnatural death or of any death under suspicious circumstances.

EXPLANATION.—In this section "village" includes village-lands.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. In making an arrest, the Police-officer or other person making the arrest how made. same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such Police-officer or other person may use all means necessary to effect the arrest.

Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death, or with transportation for life.

47. If any person acting under a warrant of arrest, or any Police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such Police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

48. If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may issue but cannot be obtained without affording the person to

be arrested an opportunity of escape, for a Police-officer, to enter such place and search therein, and

in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or Police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

49. Any Police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

51. Whenever a person is arrested by a Police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail, but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the Police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing apparel, found upon him.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

When police may arrest without warrant.

54. Any Police-officer may, without an order from a Magistrate and without a warrant, arrest—

first—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned;

secondly—any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of housebreaking;

thirdly—any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

fourthly—any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly—any person who obstructs a Police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; and

sixthly—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy.

This section applies to the police in the towns of Calcutta and Bombay.

55. Any officer in charge of a Police-station may, in like manner, arrest habitual robbers, &c. or cause to be arrested—

(a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

56. When any officer in charge of a Police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence for which the arrest is to be made.

57. When any person in the presence of a Police-officer commits or is accused of committing a non-cognizable offence, and refuses on

Refusal to give name and residence.

Arrest,
and
taking.

demand of a Police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless, before the expiration of that time, his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

58. A Police-officer may, for the purpose of Pursuit of offenders arresting without warrant into other jurisdictions. any person whom he is authorized to arrest under this chapter, pursue such person into any place in British India.

59. Any private person may arrest any person Arrest by private person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender;

and shall, without unnecessary delay, make over Procedure on such arrest. any person so arrested to a Police-officer; or, in the absence of a Police-officer, take such person to the nearest Police-station.

If there is reason to believe that such person comes under the provisions of section 54, a Police-officer shall re-arrest him.

If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a Police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no reason to believe that he has committed any offence, he shall be at once discharged.

60. A Police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a Police-station.

61. No Police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

62. Officers in charge of Police-stations shall Police to report apprehensions. report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

63. No person who has been arrested by a Discharge of person Police-officer shall be discharged except on his own bond, or on bail, or under, the special order of a Magistrate.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

65. Any Magistrate may at any time arrest or Arrest by or in presence of Magistrate. direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

66. If a person in lawful custody escapes or is Power, on escape, to rescued, the person from pursue and retake. whose custody he escaped or was rescued may immediately pursue and arrest him in any place in British India.

67. The provisions of sections 47, 48 and 49 Provisions of sections shall apply to arrests under 47, 48 and 49 to apply to section 66, although the person making any such arrest is not acting under a warrant and is not a Police-officer having authority to arrest.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

68. Every summons issued by a Court under Form of summons. this Code shall be in writing in duplicate signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Such summons shall be served by a Police-officer; Summons by whom served. or, subject to such rules consistent with this Code as the Local Government may prescribe in this behalf, by an officer of the Court issuing it.

This section applies to the police in the towns of Calcutta and Bombay.

69. The summons shall if practicable be served Summons how served. personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

70. Where the person summoned cannot by the Service when person summoned cannot be found. exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of

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a memorandum at the foot of such record to the following effect:—

"I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

" (Signed) A. B.,
" Magistrate."

165. Whenever an officer in charge of a Police-station, or a Police-officer making an investigation, considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or other thing as directed in the summons or order, or when such document or other thing is not known to be in the possession of any person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

Such officer shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or other thing for which search is to be made, and the place to be searched; and such subordinate officer may thereupon search for such thing in such place.

The provisions of this Code as to search-warrants shall, so far as may be, apply to a search made under this section.

166. An officer in charge of a Police-station may require an officer in charge of another Police-station, whether in the same or a different District, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

167. Whenever it appears that any investigation under this chapter cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation is well-founded, the officer in charge of the Police-station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary here-

inafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

If such order be given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

168. When any subordinate Police-officer has made any investigation under this chapter, he shall report the result of such investigation to the officer in charge of the Police-station.

169. If, upon an investigation under this chapter, it appears to the officer in charge of the Police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or commit him for trial.

170. If, upon an investigation under this chapter, it appears to the officer in charge of the Police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial; or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

When the officer in charge of a Police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant, if any, and so

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many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

If the Court of the District Magistrate or Sub-divisional Magistrate be mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference be given to such complainant or persons.

The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a Police-officer,

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the Police-station may forward him under custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. Every Police-officer making an investigation under this chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the Police-officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such Police-officer, the provisions of the Indian Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

173. Every investigation under this chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the Police-station shall forward to a Magistrate empowered to take cognizance of the offence on a police report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

Where a superior officer of police has been appointed under section 158, the report shall be submitted through him, and he may, pending the orders of the Magistrate, direct the officer in charge of the Police-station to make further investigation.

Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

174. Every officer in charge of a Police-station, on receiving information that a person—

- (a) has committed suicide, or
- (b) has been killed by another, or by an animal, or by machinery, or by an accident, or
- (c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

The report shall be signed by such Police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

When there is any doubt regarding the cause of death, or when for any other reason the Police-officer considers it expedient so to do, he shall, subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other medical officer appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such

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putrefaction on the road as would render such examination useless.

In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the Head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

The following Magistrates are empowered to hold inquests; namely, any District Magistrate or Sub-divisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

175. An officer in charge of a Police-station may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the Police-officer to attend a Magistrate's Court.

176. When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (a), (b) and (c), any Magistrate so empowered may, hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the Police-officer; and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed, according to the circumstances of the case.

Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI. PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

178. Notwithstanding anything contained in section 177, the Local Government may direct that any cases or class of cases committed for trial in any district may be tried in any Sessions Division:

Provided that such direction be not repugnant to any direction previously issued under the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, or under this Code, section 523.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(a) A is wounded within the local limits of the jurisdiction of Court X and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(b) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

180. When an act is an offence by reason of its relation to any other act which is also an offence, or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(a) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

181. The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits,

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Being a thug or belonging to a gang of dacoits, escape from custody, &c.

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or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received by the accused person, or the offence was committed.

The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief or by any person who receives or retains the same knowing or having reason to believe it to be stolen.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

184. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post-office or Arms and Ammunition may be inquired into or tried in a Presidency-town, whether the offence is stated to have been committed within such town or not: Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

185. Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this chapter be inquired into or tried, the High Court within the local limits of whose appellate criminal jurisdiction the offender actually is may decide by which Court the offence shall be inquired into or tried.

In British Burma, when the offender is an European British subject, the Recorder of Rangoon,

and in all other cases the Judicial Commissioner, shall for the purposes of this section be deemed to be the High Court.

186. When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or, if he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinafter provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent, or bound to appear, the case shall be reported for the orders of the High Court.

187. If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police-officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

188. When an European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found:

Magistrate
Criminal
Courts
Inquiries
Trials.

Jurisdiction
of Criminal
Courts
in Inquiries
and
Trials.

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in British India:

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879, in respect of the same offence in any territory beyond the limits of British India.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

190. In sections 188 and 189 the expression "Political Agent" means and includes—

(a) the principal officer representing the British Indian Government in any territory beyond the limits of British India;

(b) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under the Foreign Jurisdiction and Extradition Act, 1879, for any territory not forming part of British India.

B.—Conditions requisite for Initiation of Proceedings.

191. Except as hereinafter provided, any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts;

(c) upon information received from any person other than a Police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under clause (a) or clause (b)

of offences for which he may try or commit for trial.

The Local Government may empower any Magistrate of the first or second class to take cognizance under clause (c) of offences for which he may try or commit for trial.

192. Any District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him.

Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case, to transfer it for inquiry or trial to any other specified Magistrate in his District who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

193. Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction, unless the accused has been committed to it by a Magistrate duly empowered in that behalf.

Additional Sessions Judges and Joint Sessions Judges shall try such cases only as the Local Government by general or special order directs them to try, or as the Sessions Judge of the Division makes over to them for trial.

Assistant Sessions Judges shall try such cases only as the Sessions Judge of the Division by general or special order makes over to them for trial.

194. The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the twenty-fourth and twenty-fifth of Victoria, chapter 104.

195. No Court shall take cognizance—

(a) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, except with the previous sanction, or on the complaint, of the public servant concerned, or of some public servant to whom he is subordinate;

(b) of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the same Code, when such offence is committed in, or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate;

(c) of any offence described in section 463, or punishable under section 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed.

When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate; and no such sanction shall remain in force for more than six months from the date on which it was given.

For the purposes of this section, every Court, other than a Court of Small Causes, shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie.

The Courts of Small Causes in the Presidency-towns shall be deemed to be subordinate to the High Court, and every other Court of Small Causes shall be deemed to be subordinate to the Court of Session for the Sessions Division within which such Court is situate.

196. No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code, except section 127, or punishable under section 204A of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

197. When any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or

public servant is subordinate, and whose power to give such sanction has not been limited by such Government.

Such Government may determine the person by whom, and the manner in which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed.

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

200. A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate:

Provided as follows—

(a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192:

(b) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing:

(c) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

201. If the complaint has been made in writing and the Magistrate is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper tribunal with an endorsement to that effect.

202. If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to

Commencement of Proceedings before Magistrates.

time authorize in this behalf, or any Magistrate of the first or second class, sees reason to distrust the truth of a complaint of an offence of which he is authorized to take cognizance, he may, when the complainant has been examined, record his reasons for distrusting the truth of the complaint, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a Police-officer, or by such other person, not being a Magistrate or Police-officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

If such investigation is made by some person not being a Magistrate or a Police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a Police-station, except that he shall not have power to arrest without warrant.

This section applies to the police in the towns of Calcutta and Bombay.

203. The Magistrate before whom a complaint is made or to whom it has been transferred may dismiss the complaint if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding and the case appears to be one in which according to the fourth column of the second schedule a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which according to that column a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or some other Magistrate having jurisdiction.

Nothing in this section shall be deemed to affect the provisions of section 90.

205. Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

206. Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, Magistrate of the first class or any Magistrate empowered in this behalf by the Local Government may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

But save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court.

208. The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

209. When the evidence referred to in section 208, paragraphs 1 and 2, has been taken, and he has examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

210. When, upon such evidence being taken and such examination (if any) being made, the Magistrate finds that there are sufficient grounds for committing the accused for trial, he

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shall frame a charge under his hand, declaring with what offence the accused is charged.

As soon as the charge has been framed, it shall be read and explained to the accused and a copy thereof shall, if he so requires, be given to him free of cost.

211. The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

The Magistrate may in his discretion allow the accused to give in any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

212. The Magistrate may in his discretion summon and examine any witness named in any list given in to him under section 211.

213. When the accused on being required to give in a list under section 211 has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

214. If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject who is about to be committed for trial, or to be tried, before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

215. A commitment once made under section 213 or section 214 by a competent Magistrate can be quashed by the High Court only, and only on a point of law.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list as have not appeared before himself, to appear before the Court to which the accused has been committed:

Provided that where the accused has been committed to the High Court, the Magistrate may in his discretion leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly:

Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness.

217. Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary, and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court, to prosecute or to give evidence, as the case may be.

If any complainant or witness refuses to attend before the Court of Session or High Court, or to execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

218. When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Charge.

The Charge

When the commitment is made to the High Court and any part of the English translation to be forwarded to High Court, English translation of such part shall be forwarded with the record.

219. The Magistrate may summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused, by warrant, to custody.

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

221. Every charge under this Code shall state the offence with which the accused is charged.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

In the Presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court.

If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award, the fact, date and

place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

Illustrations.

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception 1, one or other of the three provisos to that exception applied to it.

(b) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(d) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

222. The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(a) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Words in charge taken in sense of law under which offence is punishable.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

Effect of errors.

Illustrations.

(a) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge, or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Procedure on commitment without charge or with imperfect charge.

227. Any Court may alter any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed.

Court may alter charge.

Every such alteration shall be read and explained to the accused.

228. If the charge framed or alteration made under section 226 or section 227 is such that the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may in its discretion, after such charge or alteration has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When trial may proceed immediately after alteration.

229. If the new or altered charge is such that the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

When new trial may be directed, or trial suspended.

230. If the offence stated in the new or altered charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge requires previous sanction.

231. Whenever a charge is altered by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration, any witness who may have been examined.

Recall of witnesses when charge altered.

232. If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

Effect of material error.

If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of Charges.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Separate charges for distinct offences.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

234. When a person is accused of more offences than one of the same kind, committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

Three offences of same kind within year may be charged together.

Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code, or of any special or local law.

235. I.—If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with and tried at one trial for each of such offences.

III.—If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined, or for any offence constituted by any one, or more, of such acts.

Nothing contained in this section shall affect the Indian Penal Code, section 71.

Illustrations.

to paragraph I—

(a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and tried for, offences under sections 225 and 333 of the Indian Penal Code.

(b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(d) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(f) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(g) A, with six others, commits the offences of rioting, grievous hurt, and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code.

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (a) to (h) respectively may be tried at the same time.

to paragraph II—

(i) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

(j) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

(l) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code.

to paragraph III—

(m) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code.

236. If a single act or series of acts is of such

a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

237. If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

238. When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he is not charged with it.

Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations.

(a) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(b) A is charged under section 325 of the Indian Penal Code with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

239. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit; and the provisions contained in the former part of this chapter shall apply to all such charges.

Illustrations.

(a) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(b) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(c) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

240. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

244. If the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

245. If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

If he finds the accused guilty, he shall pass sentence upon him according to law.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused or any day subsequent thereto to which the hearing may be adjourned the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day.

248. If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

250. If, in any case instituted upon complaint, a Magistrate acquits the accused under section 245 or section 247, and is of opinion that the complaint was frivolous or vexatious, he may, in his discretion, by his order of acquittal, direct the complainant to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit.

The sum so awarded shall be recoverable as if it were a fine: Provided that, if it cannot be realized, the imprisonment to be awarded shall be for such term, not exceeding thirty days, as the Magistrate directs.

At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

252. When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

253. If upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which if unrebutted would warrant a conviction, the Magistrate shall discharge him.

Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

254. If, when such evidence and examination have been taken and made, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

255. The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

256. If the accused refuses to plead or does not plead, or claims to be tried, he shall be called upon to enter upon his defence and to produce his evidence, and shall, at any time while he is making his defence, be allowed to recall and cross-examine any witness for the prosecution present in the Court or its precincts.

If the accused puts in any written statement, the Magistrate shall file it with the record.

257. If the accused applies to the Magistrate to issue any process for compelling the attendance of any witness (whether he has or has not been previously examined in the case) for the purposes of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay, or for defeating the ends of justice. Such ground shall be recorded by him in writing.

The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

258. If in any case under this chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.

259. When the proceedings have been instituted upon complaint and upon any day fixed for the hearing of the case the complainant is absent and the offence may be lawfully compounded, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

CHAPTER XXII.

OF SUMMARY TRIALS.

260. Notwithstanding anything contained in this Code,

(1) the District Magistrate, (2) any Magistrate of the first class specially empowered in this behalf by the Local Government, and

(3) any Bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by the Local Government may try in a summary way all or any of the following offences:—

(a) Offences not punishable with death, transportation or imprisonment for a term exceeding six months;

(b) Offences relating to weights and measures, under sections 264, 265 and 266 of the Indian Penal Code;

(c) Hurt, under section 323 of the same Code;

(d) Theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees;

(e) Receiving or retaining stolen property, under section 411 of the same Code, where the value of such property does not exceed fifty rupees;

(f) Assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees;

(g) Mischief, under section 427 of the same Code;

(h) House-trespass, under section 448 of the same Code;

(i) Insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506, of the same Code;

(j) Abetment of any of the foregoing offences;

(k) An attempt to commit any of the foregoing offences, when such attempt is an offence:

Provided that no case in which a District Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

261. The Local Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences:—

(a) Offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426 and 447;

(b) Offences against Municipal Acts, and the conservancy-clauses of Police Acts, punishable only with fine, or with imprisonment for a term not exceeding one month;

(c) Abetment of any of the foregoing offences;

(d) An attempt to commit any of the foregoing offences, when such attempt is an offence.

262. In trials under this chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this chapter.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the Local Government may direct the following particulars:—

(a) the serial number;

(b) the date of the commission of the offence;

(c) the date of the report or complaint;

(d) the name of the complainant (if any);

(e) the name, parentage and residence of the accused;

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(f) the offence complained of and the offence (if any) proved, and in cases coming under clause (d), clause (e) or clause (f) of section 260 the value of the property in respect of which the offence has been committed;

(g) the plea of the accused and his examination (if any);

(h) the finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(i) the sentence or other final order; and

(j) the date on which the proceedings terminated.

264. In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

Such judgment shall be the only record in cases coming within this section.

265. Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

A.—Preliminary.

266. In this chapter, except in section 307, the expression "High Court" means a High Court of Judicature established or to be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, and includes the Chief Court of the Panjáb, and such other Courts as the Governor General in Council may, by notification in the *Gazette of India*, declare to be High Courts for the purposes of this chapter.

267. All trials under this chapter before a High Court shall be by jury;

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, the trial may, if the High Court so directs, be by jury.

Trials before Court of Session to be by jury or with assessors.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

269. The Local Government may, by order in the official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any District, and may revoke or alter such order.

When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for all such offences.

270. In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

271. When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

273. In trials before the High Court, when it appears to the High Court at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

C.—Choosing a Jury.

274. In trials before the High Court the jury shall consist of nine persons.

In trials by jury before the Court of Session, the jury shall consist of such uneven number not being less than three, or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may direct.

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275. In a trial by jury, before the Court of Session, of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who are neither Europeans nor Americans.

276. The jurors shall be chosen by lot from the persons summoned to act as such, in such manner as the High Court may from time to time by rule direct :

Provided that—

first, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed ;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present ; and

thirdly, in the Presidency towns—

(a) if the accused person is charged with having committed an offence punishable with death, or

(b) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed.

277. As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated :

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(a) some presumed or actual partiality in the juror ;

(b) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years ;

(c) his having by habit or religious vows relinquished all care of worldly affairs ;

(d) his holding any office in or under the Court ;

(e) his executing any duties of police or being entrusted with police-duties ;

(f) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;

(g) his inability to understand the language in which the evidence is given, or, when such evidence is interpreted, the language in which it is interpreted ;

(h) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

279. Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276 ; or, if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury, provided that no objection to such juror or other person is taken under section 278 and allowed.

280. When the jurors have been chosen, they shall appoint one of their number to be foreman.

The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873.

282. If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given, or, when such evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

In each of such cases the trial shall commence anew.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

Discharge of jury in case of sickness of prisoner.

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Courts of
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D.—Choosing Assessors.

284. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such.

285. If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is unable to attend, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

E.—Trial to Close of Cases for Prosecution and Defence.

286. When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

The prosecutor shall then examine his witnesses.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.

288. The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case.

289. When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

If he says that he does not, the prosecutor may sum up his case; and if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict, of not guilty.

If the accused or any one of several accused says that he means to adduce evidence and the Court considers that there is no evidence that the accused committed the offence, the Court may

then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict, of not guilty.

If the accused, or any one of several accused says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

290. The accused or his leader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

292. If the accused, or any of the accused, has stated, when asked under section 289, that he means to adduce evidence, the prosecutor shall be entitled to reply.

293. Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

295. If a trial is adjourned, the jury or assessors shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

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(b) a list of persons liable to serve as special jurors only.

Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

The Governor General in Council in the case of the High Court at Calcutta, and, in the case of other High Courts, the Local Government, may exempt any salaried officer of Government from serving as a juror.

The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion of officer preparing lists. discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

314. Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

315. Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each Presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

No person shall be so summoned more than once in six months unless the number cannot be made up without him.

If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the Presidency-towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

317. In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-commissioned officers in Her Majesty's Army resident within ten miles of its place of sitting, as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

318. Any person summoned under section 315, section 316 or section 317, who without lawful excuse fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable by order of the Judge to such fine as he thinks fit; and, in default of payment of such fine, to imprisonment in the civil jail until the fine is paid.

K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the District in which they reside.

320. The following persons are exempt from liability to serve as jurors or assessors, namely :—

- (a) Officers in civil employ superior in rank to a District Magistrate ;
- (b) Judges ;
- (c) Commissioners and Collectors of Revenue or Customs ;
- (d) Persons engaged in the Preventive Service in the Customs Department ;
- (e) Persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty ;
- (f) Persons actually officiating as priests or ministers of their respective religions ;
- (g) Persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors ;
- (h) Surgeons and others who openly and constantly practise the medical profession ;

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(e) Persons employed in the Post-office and Telegraph Departments;

(f) Persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure, sections 640 and 641;

(k) Other persons exempted by the Local Government from liability to serve as jurors or assessors.

321. The Sessions Judge, and the Collector of the District or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (b) to (k), both inclusive.

The list shall contain the name, place of abode and quality or business of every such person; and if the person is an European or an American, the list shall mention the race to which he belongs.

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the Court-houses of the District Magistrate and of the District Court, and in some conspicuous place in the town or towns in or near which the persons named in the list reside.

323. To every such copy shall be subjoined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the Sessions Court-house, and at a time to be mentioned in the notice.

324. For the hearing of such objections, the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may establish his right to any exemption from service given by section 320, and insert the name of any person omitted from the list whom they deem qualified for such service.

In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

325. The list so prepared and revised shall be again revised once in every year.

The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

326. The Sessions Judge shall ordinarily, three days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any such trial.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever for other reasons such direction is found to be necessary.

328. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

329. Where any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears, on the representation of the head of the office in which he is employed, that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

330. The Court of Session may for reasonable cause excuse any juror or assessor from attendance at any particular session.

331. At each session, the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

Such list shall be kept with the list of the jurors and assessors as revised under section 324.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

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332. Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable, by order of the Court of Session, to a fine not exceeding one hundred rupees.

Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may by order of the Court of Session be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for High Courts.

333. At any stage of any trial before a High Court under this Code before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

335. The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

But it may, from time to time, in the case of the High Court at Fort William with the consent of the Governor General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court,

or direct that they shall be tried at a particular place named.

CHAPTER XXIV.

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

337. In the case of any offence triable exclusively by the Court of Session or High Court, the District Magistrate, a Presidency Magistrate, any Magistrate of the first class inquiring into the offence, or, with the sanction of the District Magistrate, any other Magistrate, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence, and to every other person concerned, whether as principal or abettor, in the commission thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial by the Court of Session or High Court, as the case may be.

Every Magistrate, other than a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing; and when any Magistrate has made such tender and, examined the person to whom it has been made, he shall not try the case himself, although the offence which the accused appears to have committed may be triable by such Magistrate.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

339. Where a pardon has been tendered under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false

evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been withdrawn under this section.

No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

340. Every person accused before any Criminal Court may of right be defended.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

342. For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial, without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined, and before he is called on for his defence.

The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just.

The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

No oath shall be administered to the accused.

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

344. If, from the absence of a witness or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, the Court may, by order in writing, stating the reasons therefor, from time to time postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

EXPLANATION.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

345. The offences punishable under the sections of the Indian Penal Code described in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table:—

Offence.	Sections of Indian Penal Code applicable.	Person by whom offence may be compounded.
Uttering words, &c., with deliberate intent to wound the religious feelings of any person	298	The person whose religious feelings are intended to be wounded.
Causing hurt ...	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person ...	341, 342	The person restrained or confined.
Assault or use of criminal force ...	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour ...	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person ..	426, 427	The person to whom the loss or damage is caused.
Criminal trespass ...	447	The person in possession of the property trespassed upon
House-trespass ...	448	

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Offence.	Sections of Indian Penal Code appli- cable.	Person by whom offence may be compounded.
Criminal Breach of Con- tract of service ...	490, 491, 492	The person with whom the of- fender has con- tracted.
Adultery ...	497	The husband of the woman.
Enticing or taking away or detaining with a criminal intent a married woman ...	498	
Defamation ...	500	The person de- famed.
Printing or engraving matter knowing it to be defamatory ...	501	
Sale of printed or en- graved substance con- taining defamatory matter, knowing it to contain such matter ...	502	
Insult intended to pro- voke a breach of the peace ...	504	The person in- sulted.
Criminal intimidation, except when the offence is punishable with im- prisonment for seven years ...	506	The person inti- midated.

The offence of voluntarily causing hurt, voluntarily causing grievous hurt, causing hurt by an act which endangers life, or causing grievous hurt by an act which endangers life, punishable under section 324, section 335, section 337, or section 338 of the Indian Penal Code, may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom the hurt has been caused.

When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot or a lunatic, any person competent to contract on his behalf may compound such offence.

The composition of an offence under this section shall have the effect of an acquittal of the accused.

No offence not mentioned in this section shall be compounded.

346. If, in the course of an inquiry or a trial before a Magistrate in any district outside the Presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate, or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

347. If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions hereinbefore contained.

If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

348. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate before whom he is accused considers him an habitual offender, be committed to the Court of Session or High Court, as the case may be; or, in districts in which the District Magistrate has been invested with powers under section 80, placed on his trial before such Magistrate.

349. Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion after hearing the evidence for the prosecution and the accused that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate.

The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence; and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law: Provided that he shall not inflict a punishment

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more severe than he is empowered to inflict under sections 32 and 33.

350. Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and re-commence the inquiry or trial:

Provided as follows:—

(a) In any trial, the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard:

(b) The High Court, or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate, may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby; and may order a new inquiry or trial.

Nothing in this section applies to cases in which proceedings have been stayed under section 346.

351. Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of examination, for any offence of which such Court can take cognizance and which, from the evidence, he may appear to have committed; and may be proceeded against as though he had been arrested or summoned.

When the detention takes place in the course of an inquiry under Chapter XVIII, or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh and the witnesses re-heard.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

355. In summons-cases tried before a Magistrate, other than a Presidency Magistrate, and in cases of the offences mentioned in section 260, clauses (b) to (k), both inclusive, when tried by a Magistrate of the first or second class, the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

356. In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates) and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court, by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence, and shall be signed by the Magistrate or Sessions Judge.

When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness

proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

357. The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of each witness shall in the cases referred to in section 356 be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

Provided that the Local Government may direct the Sessions Judge or Magistrate to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the Local Government has made the order referred to in section 357, in the manner provided in the same section.

359. Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

The Magistrate or Sessions Judge may in his discretion take down, or cause to be taken down, any particular question and answer.

360. As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

361. Whenever any evidence is given in a language not understood by the accused and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

362. In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may in his discretion take down, or cause to be taken down, any particular question or answer.

Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

363. When a Sessions Judge or Magistrate has recorded the evidence of a witness he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

364. Whenever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter or the Chief Court of the Panjáb, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or English; and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of

such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing, and that the record contains a full and true account of the statement made by the accused.

In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presidency Magistrate, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

365. Every High Court established by Royal Charter and the Chief Court of the Panjáb may from time to time by general rule prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

CHAPTER XXVI.

OF THE JUDGMENT.

366. The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court either immediately or at some subsequent time of which due notice shall be given to the parties or their pleaders; and the accused shall, if in custody, be brought up, or if not in custody shall be required to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only, in which case it may be pronounced in the presence of his pleader.

367. Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon, and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

When the conviction is under the Indian Penal Code, and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed:

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

368. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

No sentence of transportation shall specify the place to which the person sentenced is to be transported.

369. No Court, other than a High Court, when it has signed its judgment shall alter or review the same, except as provided in section 395 or to correct a clerical error.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars:—

- (a) the serial number of the case;
- (b) the date of the commission of the offence;
- (c) the name of the complainant (if any);
- (d) the name of the accused person, and (except in the case of an European British subject) his parentage and residence;
- (e) the offence complained of or proved;
- (f) the plea of the accused and his examination (if any);
- (g) the final order;
- (h) the date of such order; and
- (i) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

371. The judgment shall be explained to the accused, and on his application a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

Submission of Sentences for Confirmation.

In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the application of the accused, be given to him without delay and free of cost.

When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

372. The original judgment shall be filed with the record of proceedings, and where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court.

375. If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself or direct it to be made or taken by the Court of Session.

Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

376. In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such examination and hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

379. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court, and attested with his official signature, to the Court of Session.

380. When a sentence passed by an Assistant Sessions Judge or by a District Magistrate acting under section 34 is submitted to a Sessions Judge for confirmation, such Sessions Judge—

(a) may confirm the sentence, or pass any other sentence which the lower Court might have passed ; or

(b) may annul the conviction, and convict the accused of any offence of which the lower Court might have convicted him, or order a new trial on the same or an amended charge ; or

(c) may acquit the accused ; or

(d) if he thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

Unless the Court of Sessions otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or evidence taken ; and, when the sentence has been submitted by an Assistant Sessions Judge, such inquiry shall not be made, nor shall such evidence be taken, in the presence of jurors or assessors.

When the inquiry and the evidence (if any) are not made and taken by the Court of Sessions, the result of such inquiry and the evidence shall be certified to such Court.

Submission of Sentences for Confirmation.

CHAPTER XXVIII.

OF EXECUTION.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

382. If a woman sentenced to death be found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence to transportation for life.

383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is to be confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

386. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

387. Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the distress and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

388. When an offender has been sentenced to fine only, and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 386, it may suspend the execution of the sentence of imprisonment and may release the offender

on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized the Court may direct the sentence of imprisonment to be carried into execution at once.

389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence or by his successor in office.

390. When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct.

391. When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal be made within that time, until the sentence is confirmed by the Appellate Court: but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

The whipping shall be inflicted in the presence of the officer in charge of the jail: unless the Judge or Magistrate orders it to be inflicted in his own presence.

392. In the case of a person of or over sixteen years of age, whipping shall be inflicted with a light ratan not less than half an inch in diameter, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

In no case shall such punishment exceed thirty stripes.

393. No sentence of whipping shall be executed by instalments; and none of the following persons shall be punishable with whipping (namely):—

- (a) females;
- (b) males sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years;
- (c) males whom the Court considers to be more than forty-five years of age.

Execution.

394. The punishment of whipping shall not be inflicted unless a Medical Officer, if present, certifies, or, if there is not a Medical Officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

If, during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

395. In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

396. When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say:—

If the new sentence is severer in its quality than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

When the new sentence is not severer in its quality than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

EXPLANATION.—For the purposes of this section—

(a) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment;

(b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

397. When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced:

Provided that if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction be one of transportation, the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

398. Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

399. When any person under the age of sixteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed.

400. When a sentence has been fully executed, the officer executing it shall return the warrant on the execution of sentence. return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

401. When any person has been sentenced to punishment for an offence, the Governor General in Council, or the Local Government, may at any time, without conditions, or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

Previous
Acquittals
or Convic-
tions.

Whenever an application is made to the Governor General in Council or the Local Government for the suspension or remission of a sentence, the Governor General in Council or the Local Government, as the case may be, may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

If the person in whose favour a sentence has been suspended or remitted fails to fulfil the conditions prescribed by the Governor General in Council or the Local Government, the Governor General in Council or the Local Government, as the case may be, may cancel such suspension or remission, whereupon such person may, if at large, be arrested by any Police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions of punishment.

402. The Governor General in Council, or the Local Government, may
Power to commute without the consent of the person sentenced commute any one of the following sentences for any other mentioned after it :—

death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS.

403. A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, paragraph one.

A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

EXPLANATION.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused, or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried upon a charge of murder and acquitted. There is no charge of robbery: but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(c) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(d) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(e) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph three of this section.

(f) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(g) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.

404. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court, may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeals.

406. Any person required by a Magistrate, other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 118, may appeal to the District Magistrate.

407. Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals shall be presented to such Subordinate Magistrate, or if already presented to the District Magistrate shall be transferred to such Subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 by a Magistrate of the first class, may appeal to the Court of Session:

Provided as follows:—

(a) when in any case an Assistant Sessions Judge or a District Magistrate passes any sentence which is subject to the confirmation of the Court of Session, every appeal in such case shall lie to the High Court, but shall not be presented until the case has been disposed of by the Court of Session;

(b) any European British subject so convicted may at his option appeal either to the High Court or the Court of Session.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional or Joint Sessions Judge.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional or a Joint Sessions Judge, may appeal to the High Court.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

Appeals.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or a Presidency Magistrate on such plea, there shall be no appeal except as to the extent or legality of the sentence.

413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

EXPLANATION.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has been passed.

414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

EXPLANATION.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

416. Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII on European British subjects.

417. The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

418. An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

EXPLANATION.—The alleged severity of a sentence shall for the purposes of this section be deemed to be a matter of law.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 307.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

421. On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may reject the appeal summarily: Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

Before rejecting an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

422. If the Appellate Court does not reject the appeal summarily, it shall cause notice to be given to the appellant or his pleader and to such officer as the Local Government may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal, and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

423. The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused, if he appears, the Court may, if it considers there is no sufficient ground for interfering, dismiss the appeal, or may—

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court, or committed for trial, or (2) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or (3) with or without such reduction, and with or without altering the finding, alter the nature of the sentence, but not so as to enhance the same;

(c) in an appeal from any other order, alter or reverse such order:

(d) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

425. Whenever a case is decided on appeal by the High Court under this chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and, if necessary, the record shall be amended in accordance therewith.

426. Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, if he is in confinement, that he be released on bail or on his own bond.

The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

427. When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

428. In dealing with any appeal under this chapter, the Appellate Court, if it thinks additional evidence to be necessary, may either take such evidence itself, or direct it to be taken by a Magistrate,

Reference
and
Revision.

or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors or assessors.

The taking of evidence under this section shall for the purposes of Chapter XXV be deemed to be an inquiry.

429. When the Judges composing the Court of appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such examination and such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

431. Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this chapter shall finally abate on the death of the appellant.

CHAPTER XXXII.

OF REFERENCE AND REVISION.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference; and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon.

433. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

The High Court may direct by whom the costs of such reference shall be paid.

434. When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail,

and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit.

435. The High Court or any Court of Session, or District Magistrate, or any Sub-divisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction, for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court.

If any Sub-divisional Magistrate acting under this section considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

Orders made under sections 143 and 144 and proceedings under section 176 are not proceedings within the meaning of this section.

436. When, on examining the record of any case under section 435 or otherwise, the Court of Session or District Magistrate considers that such case is triable exclusively by the Court of Session, and that an accused person has been improperly discharged by the inferior Court, the Court of Session or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Court of Session or District Magistrate, improperly discharged:

Provided as follows—

(a) that the accused has had an opportunity of showing cause to such Court or Magistrate why the commitment should not be made:

Reference
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Revision.

Reference
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(b) that, if such Court or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Court or Magistrate may direct the inferior Court to inquire into such offence.

437. On examining any record, under section 435 or otherwise, the High Court or Court of Session may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203, or into the case of any accused person who has been discharged.

438. The Court of Session or District Magistrate may, if it or he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the results of such examination, and, when such report contains a recommendation that a sentence be reversed, may order that the execution of such sentence be suspended, and if the accused is in confinement that he be released on bail or on his own bond.

439. In the case of any proceeding the record of which has been called for by itself, or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of appeal by sections 195, 423, 426, 427 and 428, or on a Court by section 338, and may enhance the sentence, and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision:

Optional with Court to hear parties. Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, paragraph two.

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit

Statement by Presidency Magistrate of grounds of his decision to be considered by High Court. with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision or order.

442. When a case is revised under this chapter by the High Court, it shall certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

High Court's order to be certified to lower Court or Magistrate.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.

443. No Magistrate, unless he is a Justice of the Peace, and (except in the case of a Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

Magistrates who may inquire into and try charges against European British subjects

444. No Judge presiding in a Court of Session shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, if he is an Assistant Sessions Judge, unless he has held the office of Assistant Sessions Judge for at least three years, and has been specially empowered in this behalf by the Local Government.

Sessions Judge to be an European British subject.

Assistant Sessions Judge to have held office for three years and to be specially empowered.

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Cognizance of offence committed by European British subject.

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

Criminal Proceedings against Europeans and Americans.

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446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both.

447. When an European British subject is accused of an offence before a Magistrate, and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court.

When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences.

449. Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both.

If, at any time after the commitment and before signing judgment, the presiding Judge finds his powers inadequate, and the offence which appears to be proved cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court.

450. If the Judge of the Sessions Division within which the offence is ordinarily triable is not an European British subject, the case shall be reported by the committing Magistrate for the orders of the highest Court of criminal appeal for the province within which such division is situate.

In British Burma the Court of the Recorder of Rangoon shall, for the purposes of this section, be deemed to be the highest Court of criminal appeal.

451. In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is ap-

pointed, as the case may be, any such subject requires to be tried by a mixed jury, or by a mixed set of assessors, not less than half the number of the jurors or assessors shall be Europeans or Americans, or both Europeans and Americans.

452. In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately:

Provided that, if the European British subject requires under section 451 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of Chapter XXIII.

453. When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further inquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

When the Court before which any person is tried decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

454. If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject, and shall not assert it in any subsequent stage of the same case.

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Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

455. Where a person who is not an European British subject is dealt with as such under this chapter, and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid.

456. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf may apply to the High Court

which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained, or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass.

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor General in Council may direct.

459. Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons be not expressly referred to therein.

Nothing in this section shall be deemed to authorize any Court to exceed the limits prescribed by this chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate not being a Justice of the Peace or on any Magistrate or Sessions Judge outside the Presidency-towns not being an European British subject.

460. In every case triable by jury or with the aid of assessors, in which an European (not being an European British subject) or an American is the accused person, or one of the

accused persons, not less than half the number of jurors or assessors shall, if practicable and if such European or American so claims, be Europeans or Americans.

461. Whenever an European or American is charged before the Court of Session jointly with a person not an European or American, and in compliance with a claim made under section 460 is tried by a jury, or with the aid of a set of assessors, of which at least one-half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately.

462. When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 451 or section 460, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons has been already summoned for trials by jury at that session.

From the whole number of persons returned, the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained :

Provided that in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

463. Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans, before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

CHAPTER XXXIV.

LUNATICS.

464. When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the District or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

Lunatics.

Lunatics

If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall postpone further proceedings in the case.

465. If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury or the Court with the aid of assessors shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

466. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

If the case is one in which bail may not be taken, or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, and the Local Government may order the accused to be confined in a lunatic asylum or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

467. Whenever an inquiry or a trial is postponed under section 164 or section 165, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

468. If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

471. Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the orders of the Local Government.

The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

472. When any person is confined under the provisions of section 466 or section 471, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylum, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind, and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the

Proceedings in case of certain offences affecting Administration of Justice.

certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

474. If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a commission, consisting of a judicial and two medical officers.

Such commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

475. Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

The provisions of sections 472 and 471 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

476. When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195, and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate of the first class, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

Such Magistrate shall thereupon proceed according to law, and may, if he is authorized under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate.

477. Subject to the provisions of section 444, a Court of Session may charge a person for any offence referred to in section 195 and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail and try, such person upon its own charge.

Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

478. When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

For the purposes of an inquiry under this section, the Civil or Revenue Court may, subject to the provisions of section 443, exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, and shall be deemed to have been held by a Magistrate.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorized to commit for trial; and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

480. When any such offence as is described in section 175, section 178, section 179, section 180, or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender, whether he is an European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

Proceedings in case of certain offences affecting Administration of Justice.

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Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

481. In every such case, the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

482. If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, shall forward such person under custody to such Magistrate.

The Magistrate to whom any case is forwarded under this section shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

483. When the Local Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877, shall be deemed to be a Civil Court within the meaning of sections 480 and 482.

484. When any Court has under section 481 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

485. If any witness before a Criminal Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of

an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

486. Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding or reduce or reverse the sentence appealed against.

An appeal from such conviction by a Court of Small Causes in a Presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the Sessions Division within which such Court is situate.

An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the Presidency-towns, to the High Court.

487. Except as provided in sections 477, 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court, the Recorder of Rangoon, and the Presidency Magistrates, shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court, or shall prevent a Presidency Magistrate from himself disposing of any case instead of sending it for inquiry to another Magistrate.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

488. If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magis-

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nance of
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Appeals from convictions in contempt-cases.

Procedure where Court considers that case should not be dealt with under section 480.

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

Discharge of offender on submission or apology.

Imprisonment or committal of person refusing to answer or produce document.

Order for maintenance of wives and children.

Maintenance of
Wives and
Children.

trate, or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Such allowance shall be payable from the date of the order.

If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month:

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her; and may make an order under this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

All evidence under this chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases.

489. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order shall be enforceable by any Magistrate in any place where the person against

whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A HABEAS CORPUS.

491. Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(a) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law;

(b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(c) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any Commission from the Governor General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(e) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(f) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

Nothing in this section applies to persons detained under Bengal Regulation III of 1818, Madras Regulation II of 1819 or Bombay Regulation XXV of 1827, or the Acts of the Governor General in Council No. XXXIV of 1850 or No. III of 1858.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

492. The Governor General in Council or the Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal; and, if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions.

494. Any Public Prosecutor appointed by the Governor General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person; and, upon such withdrawal,

(a) if it is made before a charge has been framed, the accused shall be discharged;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted.

495. Any Magistrate inquiring into or trying any case may permit any person other than an officer of police below the rank of Police Inspector to conduct the prosecution; but no person, other than the Advocate General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

Any person conducting the prosecution may do so personally or by a pleader.

CHAPTER XXXIX.

OF BAIL.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a Police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead

of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

497. When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a Police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody.

498. The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a Police-officer or Magistrate be reduced.

499. Before any person is released on bail or released on his own bond, a bond for such sum of money as the Police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the Police-officer or Court, as the case may be.

If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

500. As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and when he is in jail the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Commissions for Examination of Witnesses.

Commissions for Examination of Witnesses.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it, and may order him to find sufficient sureties, and on his failing so to do may commit him to jail.

502. All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond either wholly or so far as relates to the applicants.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the person so released be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

503. Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission under. to any District Magistrate or Magistrate of the first class, within the local limit of whose jurisdiction such witness resides, to take the evidence of such witness.

When the witness resides in the dominions of any Prince or State in alliance with Her Majesty in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

504. If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the thirty-ninth and fortieth of Victoria, chapter 46, section 3.

505. The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed shall examine the witness upon such interrogatories.

Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

507. After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

508. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

CHAPTER XLI.

SPECIAL RULES OF EVIDENCE.

509. The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

510. Any document purporting to be a report under the hand of the Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

511. In any inquiry, trial or other proceeding under this Code a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,—

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order; or

(b) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

512. If it be proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into or trial for the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix in lieu of executing such bond.

514. Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person.

Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the distress and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

The Court may at its discretion remit any portion of the penalty mentioned and enforce payment in part only.

515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

517. When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal of any document or other property produced before it regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is livestock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

EXPLANATION.—In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court; and may modify, alter or annul such order.

521. On a conviction under the Indian Penal Code, section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

The Court may in like manner, on a conviction under the Indian Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

522. Whenever a person is convicted of an offence attended by criminal force, and it appears to the Court that, by such force, any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same.

No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

523. The seizure by any Police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it, and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before him and establish his claim within six months from the date of such proclamation.

524. If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate or of a Magistrate of the first class empowered by the Local Government in this behalf.

In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

525. If the person entitled to the possession of such property is unknown or absent, and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

526. Whenever it is made to appear to the High Court may transfer case, or itself try it.

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(d) that an order under this section will tend to the general convenience of the parties or witnesses,

it may order—

(1) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 both inclusive), but in other respects competent to inquire into or try such offence;

(2) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction; or

(3) that any particular criminal case or appeal be transferred to and tried before itself.

When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

Every application for the exercise of the power conferred by this section shall be made by motion which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecutor.

Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Nothing in this section shall be deemed to affect any order made under section 197.

527. The Governor General in Council may, by notification in the *Gazette of India*, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

528. Any District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him; and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

The Local Government may authorize the District Magistrate to withdraw from the Magistrates subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

529. If any Magistrate not empowered by law to do any of the following things, namely:—

(a) to issue a search-warrant, under section 98;

(b) to order, under section 155, the police to investigate an offence;

(c) to hold an inquest under section 176;

(d) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;

- (e) to take cognizance of an offence under section 191, clause (a) or clause (b);
 (f) to transfer a case under section 192;
 (g) to tender a pardon under section 337 or section 338;
 (h) to sell property under section 524 or section 525; or
 (i) to withdraw a case and try it himself under section 524;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things (namely):—

- (a) attaches and sells property under section 88;
 (b) issues a search-warrant for a letter in the Post-office, or a telegram in the Telegraph Department;
 (c) demands security to keep the peace;
 (d) demands security for good behaviour;
 (e) discharges a person lawfully bound to be of good behaviour;
 (f) cancels a bond to keep the peace;
 (g) makes an order under section 133 as to a local nuisance;
 (h) prohibits under section 143 the repetition or continuance of a public nuisance;
 (i) issues an order under section 144;
 (j) makes an order under Chapter XII;
 (k) takes cognizance under section 191, clause (c), of an offence;
 (l) passes a sentence under section 349, on proceedings recorded by another Magistrate;
 (m) calls under section 435, for proceedings;
 (n) makes an order for maintenance;
 (o) revises under section 515, an order passed under section 514;
 (p) tries an offender;
 (q) tries an offender summarily; or
 (r) decides an appeal;
 his proceedings shall be void.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed took place in a wrong Session Division, District, Sub-division or other local area, unless it appears that such error occasioned a failure of justice.

532. If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of

Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless, during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment, and direct a fresh inquiry by a competent Magistrate.

533. If any Court before which a confession or other statement of an accused person recorded under section 164 or section 364 is tendered in evidence finds that the provisions of such section have not been fully complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and, notwithstanding anything contained in the Indian Evidence Act, section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits.

534. An omission to ask any person whether he is an European British subject in a case to which the second clause of section 454 applies shall not affect the validity of any proceeding.

535. No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has been occasioned thereby.

If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge shall be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

536. If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

537. Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

of any error, omission or irregularity in the complaint, summons, warrant, charge, judgment or

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other proceedings before or during trial or in any inquiry or other proceeding under this Code, or

of the want of any sanction required by section 195, or

of the omission to revise any list of jurors or assessors in accordance with section 324, or

of any misdirection in any charge to a jury; unless such error, omission, irregularity, want or misdirection has occasioned a failure of justice.

538. No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto.

Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.

CHAPTER XLVI.

MISCELLANEOUS.

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in Chancery in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

541. Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

542. Notwithstanding anything contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time

to be therein named, to the Magistrate for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor General in Council, any Criminal Court may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

545. Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may when passing judgment order the whole or any part of the fine recovered to be applied—

(a) in defraying expenses properly incurred in the prosecution;

(b) in compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the Court, recoverable by civil suit.

If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

546. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

547. Any money (other than a fine) payable by virtue of any order made under this Code shall be recoverable as if it were a fine.

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury, or of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished therewith: Provided that he pay for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

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at Reg. XX,
1882.

549. The Governor General in Council may make rules, consistent with this Code and the Army Act, 1881, or any similar law for the time being in force, as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies or by Court-martial; and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act, 1881, section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

550. Police-officers superior in rank to an officer in charge of a Police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

551. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

552. Whenever any person causes a Police-officer to arrest another person in a Presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested for his loss of time and expenses in the matter, as the Magistrate thinks fit.

In such cases, if more persons than one are arrested or complained against, the Magistrate may in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

553. With the previous sanction of the Governor General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time

to time, make rules for the inspection of the records of subordinate Courts.

Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,

(a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(c) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and

(d) make rules for regulating the execution of warrants issued under this Code for the levy of fines;

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

All rules made under this section shall be published in the local official Gazette.

554. Subject to the power conferred by section 553, and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the fifth schedule with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

555. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed to be a party or personally interested, within the meaning of this section, to or in any case, merely because he is a Municipal Commissioner.

556. The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than the High Courts established by Royal Charter.

557. All powers conferred by this Code on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

558. The provisions of this Code shall apply, so far as may be, to all cases pending in any Criminal Court when this Code comes into force.

SCHEDULE I.
ENACTMENTS REPEALED.

(a).—*Statute.*

Year, reign and chapter.	Title.	Extent of repeal.
18 Geo. III, chapter 63	An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe.	Section 38.

(b).—*Acts of the Governor General in Council.*

Number and year.	Subject.	Extent of repeal.
XXIII of 1840 ...	Execution of process ...	So much as has not been repealed.
XLV of 1860 ...	Penal Code ...	The illustrations to section 214.
V of 1861 ...	Police Act ...	Section 6 and the last nine words of section 24. Section 35, down to and including the words "Provided that."
XVIII of 1862 ...	Criminal Procedure, Supreme Courts ...	So much as has not been repealed.
VI of 1864 ...	Whipping ...	Section 7.
II of 1869 ...	Justices of the Peace ...	So much as has not been repealed.
XXII of 1870 ...	Application to European British subjects of Acts conferring summary jurisdiction.	So much as has not been repealed.
IV of 1872 ...	Panjáb Laws ...	So far as it relates to Bengal Regulation XX of 1825.
X of 1872 ...	The Code of Criminal Procedure ...	So much as has not been repealed.
XI of 1874 ...	Amending the Code of Criminal Procedure	The whole.
XV of 1874 ...	Laws Local Extent ...	So far as it relates to Bengal Regulation XX of 1825.
X of 1875 ...	High Courts' Criminal Procedure ...	The whole Act, except section 144 and so much of section 146 as relates to informations.

SCHEDULE I—*continued.*ENACTMENTS REPEALED—(*continued.*)(b).—*Acts of the Governor General in Council,—continued.*

Number and year.	Subject.	Extent of repeal.
XX of 1875 ...	Central Provinces Laws ...	So far as it relates to Bengal Regulation XX of 1825.
XVIII of 1876 ...	Oudh Laws ...	Ditto.
IV of 1877 ...	Presidency Magistrates ...	The whole Act except section 57.
XXI of 1879 ...	Extradition ...	Chapter III.
X of 1881 ...	Coroners ...	Sections 8 and 9.

(c).—*Regulations.*

Number and year.	Subject.	Extent of repeal.
Bengal Regulation XX of 1825.	Jurisdiction of Courts Martial ...	So much as has not been repealed.
III of 1872 ...	Santhál Parganas Settlement ...	So far as it relates to Act X of 1872.
IX of 1874 ...	Arakan Hills District Laws ...	So far as it relates to Acts II of 1869, X of 1872 and XI of 1874.
III of 1877 ...	Ajmer Laws ...	So far as it relates to Bengal Regulation XX of 1825.

(d).—*Act of the Governor of Fort St. George in Council.*

Number and year.	Subject.	Extent of repeal.
VIII of 1867 ...	Police ...	Section 9.

SCHEDULE II—continued.

CHAPTER V.—ABETMENT—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
117	Abetting the commission of an offence by the public, or by more than ten persons.	May arrest without warrant if offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	Imprisonment of either description for 3 years, or fine, or both.	The Court by which the offence abetted is triable.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed ..	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto	Ditto	According as the offence abetted is bailable or not.	Ditto	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation for life.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years.	Ditto.

	If the offence be not committed ...	Ditto	...	Ditto	...	According as the offence abetted is bailable or not.	Ditto	...	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto	...	Ditto	...	Ditto	Ditto	...	Ditto	Ditto.
	If the offence be not committed ..	Ditto	...	Ditto	...	Ditto	Ditto	...	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant	...	Not bailable ...	Not compoundable.	Death, or transportation for life, and forfeiture of property.	Court of Session.
121								
121A	Conspiring to commit certain offences against the State.	Ditto	Ditto	...	Ditto	Ditto	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	Ditto	...	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	...	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

SCHEDULE II—continued.

CHAPTER VI.—OFFENCES AGAINST THE STATE—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
124A	Exciting, or attempting to excite, disaffection.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

129	Public servant negligently suffering prisoner of State or War in his custody to scape.	Ditto	Ditto	Bailable	Ditto	Simple imprisonment for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Ditto	Death, or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.

SCHEDULE II—continued.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code	8 By what Court triable.
135	Abetment of the desertion of an officer, soldier or sailor.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ...	Ditto ...	Ditto ...	Fine of 500 rupees ...	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

	Being member of an unlawful assembly.	May arrest without warrant.	Summons ..	Bailable	...	Not com-poundable.	Imprisonment of either de-scription for 6 months, or fine, or both.	Any Magistrate.
143					...			
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	...	Ditto	Imprisonment of either de-scription for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlaw-ful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	...	Ditto	Ditto	Ditto.
148	Rioting, armed with a deadly weapon.	Ditto	Ditto	Ditto	...	Ditto	Imprisonment of either de-scription for 3 years, or fine, or both.	Court of Session, Presidency Ma-gistrate or Ma-gistrate of the first class.
149	If an offence be committed by any member of an unlawful assem-bly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto	Ditto	The same as for the offence .	The Court by which the of-fence is triable.
150	Hiring, engaging or employing persons to take part in an unlaw-ful assembly. .	May arrest with-out warrant.	According to the offence committed by the person hired, engag-ed or employ-ed.	Ditto	...	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto

SCHEDULE II—continued.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed ...	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees ...	Presidency Magistrate or Magistrate of the first or second class.

155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	...	Ditto	...	Ditto	...	Fine	...	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 6 months, or fine, or both.	...	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
	Or to go armed	...	Ditto	...	Warrant	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	...	Ditto.
160	Committing affray	...	Shall not arrest without warrant.	...	Summons	...	Ditto	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	...	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	...	Bailable	...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
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SCHEDULE II—continued.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—(continued).

1 Section	2 Offence	3 Whether the police may arrest without warrant or not	4 Whether a warrant or summons shall be issued in the first instance	5 Whether bailable or not	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Shall not arrest without warrant	Summons ...	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transaction acted by such public servant.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.

167	Public servant framing an incorrect document with intent to cause injury.	Ditto	...	Ditto	...	Ditto	..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto	...	Ditto	...	Ditto	..	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto	...	Ditto	...	Ditto	..	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest without warrant.	...	Ditto	...	Ditto	..	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	...	Summons	...	Ditto	..	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.									
172	Absconding to avoid service of summons or other proceeding from a public servant	Shall not arrest without warrant.	...	Summons	...	Bailable	Not compoundable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate
	If summons or notice require attendance in person, &c, in a Court of Justice	Ditto	...	Ditto	...	Ditto	..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

SCHEDULE II—continued.

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(continued).

1 Section	2 Offence	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Whether com- poundable or not.	7 Punishment under the Indian Penal Code	8 By what Court triable.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a pro- clamation.	Shall not arrest without war- rant.	Summons ..	Bailable	Not com- poundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Mag- istrate or Mag- istrate of the first or second class.
	If summons, &c., require attend- ance in person, &c., in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to at- tend at a certain place in person or by agent, or departing there- from without authority.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal at- tendance, &c., in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
176	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
177	If the notice or information required respects the commission of an offence, &c.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
177	If the information required respects the commission of an offence, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

SCHEDULE II—continued.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
178	Refusing oath when duly required to take oath by a public servant.	Shall not arrest without war- rant.	Summons ...	Bailable ...	Not com- poundable.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the of- fence is com- mitted, subject to the provi- sions of Chap- ter XXXV; or, if not commit- ted in a Court, a Presidency Magistrate or Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public ser- vant on oath as true that which is false.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either de- scription for 3 years and fine.	Court of Ses- sion, Presiden- cy Magistrate or Magistrate of the first class.

182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	...	Summons	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

SCHEDULE II—continued.

CHAPTER X.—CONTENTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If such disobedience causes danger to human life, health or safety, &c.	Shall not arrest without warrant.	Summons ...	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.

194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	...	Ditto	...	Not bailable ...	Ditto	...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto	...	Ditto	...	Ditto	Ditto	...	Death, or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure a conviction of an offence punishable with transportation for life or with imprisonment for seven years or upwards.	Ditto	...	Ditto	...	Ditto	Ditto	...	The same as for the offence ...	Ditto.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	...	Ditto	...	According as the offence of giving such evidence is bailable or not.	Ditto	...	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	...	Ditto	...	Bailable	Ditto	...	The same as for giving false evidence.	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto	...	Ditto	...	Ditto	Ditto	...	Ditto	Ditto.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	...	Ditto	...	Ditto	Ditto	...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	...	Ditto	...	Ditto	Ditto	...	Ditto	Ditto.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Code	By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable	Imprisonment of either description for 7 years and fine	Court of Session.
	If punishable with transportation for life or imprisonment for ten years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

203	Giving false information respecting an offence committed.	Ditto	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Presidency Magistrate or Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of Justice ..	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years and fine.	Ditto.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
211	False charge of offence made with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	If offence charged be capital, or punishable with transportation for life, or with imprisonment for a term exceeding 7 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.

213	If punishable with imprisonment for 1 year and not for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If with imprisonment for less than 10 years.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
215	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	Ditto.

	If with imprisonment for 1 year, and not for 10 years.	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	...	Summons	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, with or without fine.	Ditto.

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If punishable with transportation for life, or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto	Ditto	Not bailable	Ditto	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.

	If under sentence of imprisonment for less than 10 years; or lawfully committed to custody.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto	...	Sammons	...	Ditto	...	Ditto	...	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension	May arrest without warrant.	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
	If charged with an offence punishable with transportation for life or imprisonment for 10 years.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If charged with a capital offence	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.

SCHEDULE II—continued.
CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If under sentence of death ...	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for one year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
226	Unlawful return from transportation ...	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Court of Session.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ...	Ditto ...	Ditto ...	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Simple imprisonment for 6 months, or fine (of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.

229	Persecution of a juror or assessor...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
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CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	...	Ditto	...	Not bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If Queen's coin ...	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.

SCHEDULE II—continued.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(continued).

1	2	3	4	5	6	7	8
Section	Offence	Whether the police or a summons shall be issued or not	Whether a warrant or a summons shall be issued or not	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable
236	Abetting in British India the counterfeiting out of British India of coin.	With or without warrant	Warrant	Not bailable	Not compoundable	The punishment provided for abetting the counterfeiting of such coin within British India.	Court of Session.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
238	Import or export of counterfeit of the Queen's coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c the same to any person.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
240	The same with respect to the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.

SCHEDULE II—continued.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.

255	Counterfeiting a Government stamp.	Ditto	...	Ditto	...	Bailable	...	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
258	Sale of counterfeit Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Court of Session, Presidency Magistrate or Magistrate of the first class. Ditto.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto	...	Ditto	...	Ditto	...	D to	...	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Indian Penal Code.	8 By what Court triable.
264	Fraudulent use of false instrument for weighing.	Shall not arrest without war- rant.	Summons ...	Bailable ...	Not com- poundable.	Imprisonment of either de- scription for 1 year, or fine, or both	Presidency Mag- istrate or Mag- istrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto ...	Ditto ...	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without war- rant.	Summons ...	Bailable ...	Not com- poundable.	Imprisonment of either de- scription for 6 months, or fine, or both.	Presidency Mag- istrate or Mag- istrate of the first or second class.
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270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink knowing the same to be noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto	Ditto	...	Ditto	...	Fine of 500 rupees	Ditto.

SCHEDULE II—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Any Magistrate.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.
281	Exhibition of a false light, mark or buoy.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees ...	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.

285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Any Magistrate.
286	So dealing with any explosive substance.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Any Magistrate.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first or second class.
292	Sale, &c., of obscene books, &c. ...	Ditto	Warrant	...	Ditto	...	Ditto	...	Ditto.

SCHEDULE II—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
293	Having in possession obscene book, &c., for sale or exhibition.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
294	Obscene songs ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
294A	Keeping a lottery-office ...	Shall not arrest without warrant.	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees . . .	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

297	Trespassing in place of worship or sepulchre, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feelings.	Shall not arrest without warrant	...	Ditto	...	Compound-able.	...	Ditto	...	Ditto.
<p style="text-align: center;">CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.</p> <p style="text-align: center;"><i>Of offence affecting life.</i></p>										
302	Murder	...	May arrest with warrant	...	Not bailable	...	Not compoundable	...	Death, or transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto	...	Ditto	...	Ditto	...	Death	...	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	...	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years, or fine, or both.	...	Ditto.
304A	Causing death by rash or negligent act.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for two years, or fine, or both.	...	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of offences affecting Life—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Death, or transportation for life, or imprisonment for 10 years, and fine..	Court of Session.
306	Abetting the commission of suicide	Ditto	...	Ditto	Ditto	...	Ditto.
307	Attempt to murder	Ditto	...	Ditto	Ditto	Imprisonment of either description for 10 years and fine	Ditto.
	If such act cause hurt to any person	Ditto	...	Ditto	Ditto	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto	...	Ditto	Ditto	Death, or as above	Ditto.
308	Attempt to commit culpable homicide.	Ditto	...	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	...	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	...	Ditto	Ditto	Simple imprisonment for one year or fine or both.	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug	Ditto	...	Not bailable ...	Ditto	Transportation for life and fine.	Court of Session.

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage ...	...	Shall not arrest without warrant.	Warrant	...	Bailable	...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent.	...	Ditto	...	Ditto	...	Not bailable	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent.	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent or person having care of it, with intention of wholly abandoning it.	...	May arrest without warrant.	...	Ditto	...	Bailable	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret disposal of dead body.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).

Of Hurt.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether liable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
323	Voluntarily causing hurt	...	Summons	Bailable	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto	Ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.

328	Administering stupefying drug with intent to cause hurt, &c.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Bailable	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Not bailable	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty	Ditto	Ditto	Ditto	Ditto	Bailable	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.	Court of Session.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	Ditto	Ditto	Not bailable	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine	Court of Session.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	Shall not arrest without warrant.	Summons	Ditto	Ditto	Bailable	Compoundable.	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.	Any Magistrate.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of Hurt—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or summons shall be issued in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons ...	Bailable ...	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	... Ditto	Ditto	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	... Ditto	Ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	... Ditto	Ditto	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
<i>Of Wrongful Restraint and Wrongful Confinement.</i>							
341	Wrongfully restraining any person.	May arrest without warrant.	Summons ...	Bailable ...	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.

342	Wrongfully confining any person	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
343	Wrongfully confining for three or more days.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years and fine.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret ...	May arrest without warrant.	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of Criminal Force and Assault.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Compoundable.	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	...	Compoundable	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
<i>Of Kidnapping, Abduction, Slavery and Forced Labour.</i>								
353	Kidnapping	...	...	...	...	Not com- poundable.	Imprisonment of either de- scription for 7 years and fine.	Court of Ses- sion, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abducting in order to murder.	Ditto	...	Ditto	...	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with in- tent secretly and wrongfully to confine a person.	Ditto	...	Ditto	...	Ditto	Imprisonment of either de- scription for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	...	Ditto	...	Ditto	Imprisonment of either de- scription for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.
368	Concealing or keeping in confine- ment a kidnapped person.	Ditto	...	Ditto	...	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	...	Ditto	...	Ditto	Imprisonment of either de- scription for 7 years and fine.	Ditto.

SCHEDULE II—continued.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(concluded).

Of Kidnapping, Abduction, Slavery and Forced Labour—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
371	Habitual dealing in slaves ...	May arrest without warrant.	Ditto ...	Not bailable ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
372	Selling or letting to hire a minor for purposes of prostitution, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
374	Unlawful compulsory labour ...	Ditto ...	Ditto ...	Bailable ...	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

Of Rape.

376 Rape	...	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
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Of Unnatural Offences.

377	Unnatural offences	...	May arrest without warrant.	Warrant	...	Not bailable ...	Not com- poundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
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CHAPTER XVII.—OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft	...	May arrest without warrant.	Warrant	...	Not bailable ...	Not com- poundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent or vessel	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	...	Ditto	...	Ditto	...	Ditto	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retreating after committing it, or to retaining property taken by it.	...	Ditto	...	Ditto	...	Ditto	Rigorous imprisonment for 10 years and fine.	Court of Session.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Extortion.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
384	Extortion ...	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court. of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life ...	Ditto.

389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence be an unnatural offence.	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life	Ditto.
<i>Of Robbery and Dacoity.</i>												
392	Robbery	...	...	May arrest without warrant.	...	Warrant	...	Not bailable	...	Not compoundable.	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	...	Ditto	...	...	Ditto	...	Ditto	...	Ditto	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	...	Ditto	...	...	Ditto	...	Ditto	...	Ditto	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	...	Ditto	...	...	Ditto	...	Ditto	...	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity	...	Ditto	...	...	Ditto	...	Ditto	...	Ditto	Ditto	Court of Session.
396	Murder in dacoity	...	Ditto	...	...	Ditto	...	Ditto	...	Ditto	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	...	Ditto	...	...	Ditto	...	Ditto	...	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto.

SCHEDULE II—continued.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).

Of Robbery and Dacoity—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether com- poundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	May arrest with- out warrant.	Warrant ...	Not bailable ...	Not com- poundable.	Rigorous imprisonment for not less than 7 years.	Court of Session.
399	Making preparation to commit dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons as- sociated for the purpose of habi- tually committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or ri- gorous imprisonment for 10 years, and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons conspiring for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto

Of Criminal Misappropriation of Property

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without war- rant.	Warrant ...	Bailable ...	Not com- poundable.	Imprisonment of either de- scription for 2 years, or fine, or both.	Any Magistrate.
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404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If by clerk or person employed by deceased.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
<i>Of Criminal Breach of Trust.</i>											
406	Criminal breach of trust	May arrest without warrant.	...	Not bailable	...	Not compoundable.	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.		
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.		
408	Criminal breach of trust by a clerk or servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class.		

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Criminal Breach of Trust—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
409	Criminal breach of trust by public servant or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of the Receiving of Stolen Property.

	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
411 Dishonestly receiving stolen property, knowing it to be stolen.	...	...	...	...	...	...
412 Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
413 Habitually dealing in stolen property.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto

414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
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Of Cheating.

417	Cheating	Shall not arrest without warrant.	...	Warrant	...	Bailable	...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law, or by legal contract, to protect.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation	...	Ditto	...	Ditto	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Fraudulent Deeds and Dispositions of Property.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

Of Mischief.

426	Mischief ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable when the only loss or damage—	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
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427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	...	Warrant	...	Ditto	...	age caused is loss or damage to a private person. Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	* May arrest without warrant.	...	Ditto	...	Ditto	...	Not compoundable.	...	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
431	Mischief by injury to public road, bridge, navigable river or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or seamark, or by exhibiting false lights.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.

* See Act XI of 1874, section 4.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Mischief—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.		
Of Criminal Trespass.													
447	Criminal trespass	...	...	May arrest without warrant.	...	Summons	...	Bailable	...	Compoundable.	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	...	...	Ditto	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	...	...	Ditto	...	Ditto	...	Not bailable	...	Not compoundable.	...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	...	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	...	...	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 2 years and fine.	Any Magistrate.
	If the offence is theft	...	...	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(concluded).
Of Criminal Trespass—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code	8 By what Court triable.
453	Lurking house-trespass or house-breaking.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for 2 years and fine	Presidency Magistrate or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If the offence is theft	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
	If the offence is theft	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
462	Being entrusted with any closed receptacle containing or supposed to contain property, and dishonestly breaking open or unfastening the same.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.
CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

1	2	3	4	5	6	7	8
Section	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Bailable or not	Whether compensation is payable or not	Punishment under the Indian Penal Code	By what Court triable.
465	Forgery	Shall not arrest without warrant	Warrant	Bailable	Not compensable	Imprisonment of either description for 2 years, or fine, or both	Court of Session.
466	Forgery of a record of a Court of Justice or of a Register of births, &c, kept by a public servant	Ditto	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine	Ditto
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, &c	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine	Ditto.
468	When the valuable security is a promissory note of the Government of India	May arrest without warrant	Ditto	Ditto	Ditto	Ditto	Ditto.
469	Forgery for the purpose of cheating.	Shall not arrest without warrant	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine	Ditto.
470	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years and fine	Ditto
471	Using as genuine a forged document which is known to be forged.	Ditto	Ditto	Ditto	Ditto	Punishment for forgery	Ditto.

	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto	...	Not bailable ...	Ditto	...	Ditto	...	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto	...	Ditto	Ditto	...	Transportation for life, or imprisonment of either description for 7 years and fine.	...	Ditto.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Ditto	Ditto	...	Ditto	Ditto	...	Imprisonment of either description for 7 years, and fine.	...	Ditto.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	Ditto	Ditto	...	Ditto	Ditto	...	Ditto	...	Ditto.
475	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	Ditto	Ditto	...	Ditto	Ditto	...	Transportation for life, or imprisonment of either description for 7 years, and fine.	...	Ditto.
476	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	...	Ditto	Ditto	...	Ditto	...	Ditto.

SCHEDULE II—continued.
CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ..	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	...	Summons	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.
CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.

494	Marrying again during the lifetime of a husband or wife.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto	...	Ditto	...	Bailable	...	Compoundable.	...	Imprisonment of either description for 5 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XXI.—DEFAMATION.

500	Defamation	...	...	...	...	Warrant	...	Bailable	...	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.

SCHEDULE II—continued.

CHAPTER XXI.—DEFAMATION—(continued).

1 Section.	2 Offence.	3 Whether the police officer will issue a warrant or not.	4 Whether a warrant is necessary or not.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace.	Ditto ...	Ditto ...	Not bailable ...	Not compoundable.	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.
506	Criminal intimidation ...	Ditto ...	Ditto ...	Bailable ...	Compoundable.	Ditto ...	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, &c.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.
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SCHEDULE II—concluded.

OFFENCES AGAINST OTHER LAWS.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If punishable with death, transportation or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	.....	According to the provisions of section 29 of this Code.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	.....
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons ...	Bailable ...	Ditto ...	.....
	If punishable with fine only ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	.....

SCHEDULE III.

ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

I.—Ordinary Powers of a Magistrate of the Third Class.

- (1) Power to arrest, or direct the arrest in his presence of, an offender ; section 65.
- (2) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant ; sections 83, 84 & 86.
- (3) Power to issue proclamations in cases judicially before him, section 87.
- (4) Power to attach and sell property in cases judicially before him, section 88.
- (5) Power to restore attached property, section 89.
- (6) Power to issue search-warrant, section 96.
- (7) Power to endorse a search-warrant and order delivery of thing found, section 99.
- (8) Power to record statements or confessions during a police investigation, section 164.
- (9) Power to authorize detention of a person during a police investigation, section 167.
- (10) Power to detain an offender found in Court, section 351.
- (11) Power to sell perishable property of a suspected character, section 525.

II.—Ordinary Powers of a Magistrate of the Second Class.

- (1) The ordinary powers of a Magistrate of the third class.
- (2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

III.—Ordinary Powers of a Magistrate of the First Class.

- (1) The ordinary powers of a Magistrate of the second class.
- (2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.
- (3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.
- (4) Power to require security to keep the peace, section 107.
- (5) Power to require security for good behaviour, section 109.
- (6) Power to make orders, &c., in possession cases ; sections 145, 146 and 147.
- (7) Power to commit for trial, section 206.
- (8) Power to stop proceedings when no complainant, section 249.
- (9) Power to make orders of maintenance, sections 488 and 489.

IV.—Ordinary Powers of a Sub-divisional Magistrate.

- (1) The ordinary powers of a Magistrate of the first class.
- (2) Power to direct warrants to landholders, section 78.
- (3) Power to make orders as to local nuisances, section 133.
- (4) Power to make orders prohibiting repetitions of nuisances, section 143.
- (5) Power to make orders under section 144.
- (6) Power to hold inquests, section 174.
- (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
- (8) Power to entertain complaints, section 191.
- (9) Power to receive police-reports, section 191.
- (10) Power to entertain cases without complaint, section 191.
- (11) Power to transfer cases to a Subordinate Magistrate, section 192.
- (12) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.
- (13) Power to sell property alleged or suspected to have been stolen, &c. section 524.
- (14) Power to withdraw cases other than appeals, and to try or refer them for trial ; section 528.

V.—Ordinary Powers of a District Magistrate.

- (1) The ordinary powers of a Sub-divisional Magistrate, being a Magistrate of the first class.
- (2) Power to issue search-warrants for documents in custody of Postal or Telegraph authorities, section 96.
- (3) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.
- (4) Power to cancel bond for keeping the peace, section 125.
- (5) Power to try summarily, section 260.
- (6) Power to quash convictions in certain cases, section 350.
- (7) Power to hear appeals from orders requiring security for good behaviour, section 406.
- (8) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.
- (9) Power to call for records, section 435.
- (10) Power to revise orders passed under section 514 ; section 515.

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SCHEDULE IV.

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH
WHICH A MAGIS-
TRATE OF THE
FIRST CLASS MAY
BE INVESTED

By THE LOCAL GOVERN-
MENT

- (1) Power to require security for good behaviour, section 110 :
- (2) Power to make orders as to local nuisances, section 133 :
- (3) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (4) Power to make orders under section 144 :
- (5) Power to hold inquests, section 174 :
- (6) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 :
- (7) Power to take cognizance of offences upon complaint, section 191 :
- (8) Power to take cognizance of offences upon police reports, section 191 :
- (9) Power to take cognizance of offences upon information, section 191 :
- (10) Power to try summarily, section 260 :
- (11) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407 :
- (12) Power to sell property alleged or suspected to have been stolen, &c., section 524.

By THE DISTRICT MAGIS-
TRATE

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (1) Power to take cognizance of offences upon complaint, section 191 :
- (5) Power to take cognizance of offences upon police reports, section 191 :
- (6) Power to transfer cases, section 192.

By THE LOCAL GOVERN-
MENT

- (1) Power to pass sentences of whipping, section 32 :
- (2) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (3) Power to make orders under section 144 :
- (4) Power to hold inquests, section 174 :
- (5) Power to take cognizance of offences upon complaint, section 191 :
- (6) Power to take cognizance of offences upon police reports, section 191 :
- (7) Power to take cognizance of offences upon information, section 191 :
- (8) Power to commit for trial, section 206 :

POWERS WITH
WHICH A MAGIS-
TRATE OF THE
SECOND CLASS
MAY BE INVESTED

By THE DISTRICT
MAGISTRATE

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (4) Power to take cognizance of offences upon complaint, section 191 :
- (5) Power to take cognizance of offences upon police reports, section 191.

SCHEDULE IV—concluded.

POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED	BY THE LOCAL GOVERNMENT	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 191 : (5) Power to take cognizance of offences upon police reports, section 191 : (6) Power to commit for trial, section 206.
	BY THE DISTRICT MAGISTRATE	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 191 : (5) Power to take cognizance of offences upon police reports, section 191.
POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED	BY THE LOCAL GOVERNMENT	Power to call for records, section 435.

SCHEDULE V.

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(See section 68.)

To

of

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or by pleader, as the case may be*), before the (*Magistrate*) of , on the

day of
Herein fail not.

Dated this day of

, 18 .

(Seal.)

(Signature.)

II.—WARRANT OF ARREST.

(See section 75.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of

, 18 .

(Seal.)

(Signature.)

(See section 76.)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of , with one surety in the sum of (or two sureties each in the sum of), to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of

, 18 .

(Signature.)

FORMS.

SCHEDULE V—*continued.*

III.—BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT.

(See section 86.)

I, (name), of _____, being brought before the District Magistrate of _____
 (or, as the case may be) under a warrant issued to compel my appearance to answer to the
 charge of _____, do hereby bind myself to attend in the Court of _____
 on the _____ day of _____ next to answer to the said charge, and to continue
 so to attend until otherwise directed by the Court; and, in case of my making default herein,
 I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees _____.

Dated this _____ day of _____, 18 ____.

(Signature.)

I do hereby declare myself surety for the abovenamed _____ of _____, that he shall
 attend before _____ in the Court of _____ on the _____ day of _____
 next to answer to the charge on which he has been arrested, and shall continue so to attend
 until otherwise directed by the Court; and, in case of his making default therein, I hereby
 bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees _____.

Dated this _____ day of _____, 18 ____.

(Signature.)

IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED.

(See section 87.)

WHEREAS complaint has been made before me that (name, description and address) has
 committed (or is suspected to have committed) the offence of _____, punishable under section
 _____ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon
 issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction
 that the said (name) has absconded (or is concealing himself to avoid the service of the said
 warrant),

Proclamation is hereby made that the said _____ of _____ is required to
 appear at (place) before this Court (or before me) to answer the said complaint within
 _____ days from this date.

Dated this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(See section 87.)

WHEREAS complaint has been made before me that (name, description and address) has
 committed (or is suspected to have committed) the offence of (mention the offence concisely)
 and a warrant has been issued to compel the attendance of (name, description and address
 of the witness) before this Court to be examined touching the matter of the said com-
 plaint; and whereas it has been returned to the said warrant that the said (name of witness)
 cannot be served, and it has been shown to my satisfaction that he has absconded (or is con-
 cealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (name) is required to appear at (place) before
 the Court of _____ on the _____ day of _____ next at _____ o'clock, to be examined
 touching _____, the offence complained of.

Dated this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(See section 88.)

To the Police-officer in charge of the Police-station at _____.

WHEREAS a warrant has been duly issued to compel the attendance of (name, description and
 address) to testify concerning a complaint pending before this Court, and it has been returned
 to the said warrant that it cannot be served, and whereas it has been shown to my satisfaction
 that he has absconded (or is concealing himself to avoid the service of the said warrant); and
 thereupon a Proclamation was duly issued and published requiring the said _____ to
 appear and give evidence at the time and place mentioned therein, and he has failed to appear;

This is to authorize and require you to attach by seizure the moveable property belonging
 to the said _____ to the value of rupees _____ which
 you may find within the District of _____ and to hold the said property under attachment

SCHEDULE V—continued.

Forms

pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(Seal.)

(Signature.)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(See section 88.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (*or town*) of , in the District of , viz., , and an order has been made for the attachment thereof;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(Seal.)

(Signature.)

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(See section 88.)

To the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days, but he has not appeared; and whereas the said is possessed of certain land paying revenue to Government in the village (*or town*) of in the District of ;

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of , 18 .

(Seal.)

(Signature.)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(See section 90.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that of has (*or is suspected to have*) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorize and require you to arrest the said (*name*) and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

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FORMS.

SCHEDULE V—continued.

VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

(See section 96.)

To (name and designation of the Police-officer or other person or persons who is or are to execute the warrant).

WHEREAS information has been laid (or complaint has been made) before me of the commission (or suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence);

This is to authorize and require you to search for the said (the thing specified) in the (describe the house or place, or part thereof, to which the search is to be confined), and, if found, to produce the same forthwith before this Court; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) _____ (Signature.)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(See section 98.)

To (name and designation of a Police-officer above the rank of a Constable).

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (describe the house or other place) is used as a place for the deposit (or sale) of stolen property (or, if for either of the other purposes expressed in the section, state the purpose in the words of the section) ;

This is to authorize and require you to enter the said house (or other place) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (or other place, or, if the search is to be confined to a part, specify the part clearly) and to seize and take possession of any property (or documents, or stamps, or seals, or coins, as the case may be)—[Add (when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps, or false seals, or counterfeit coin (as the case may be)] and forthwith to bring before this Court such of the said things as may be taken possession of; returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

[illegible]

X.—BOND TO KEEP THE PEACE.

(See section 106.)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to keep the peace for the term of _____, I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and, in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees _____.

Dated this day of , 18 . **(Signature.)**

XI.—BOND FOR GOOD BEHAVIOUR.

(See sections 109 and 110.)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects for the term of (state the period), I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees .

Dated this _____ day of _____, 18 ____.

(Where a bond with sureties is to be executed, add) We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees .

Dated this _____ day of _____, 18 ____.

(Signature.)

SCHEDULE V—*continued.*

FORMS.

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(See section 114.)

To _____ of _____

WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*) and that you are likely to commit a breach of the peace (*or by which act a breach of the peace will probably be occasioned*), you are hereby required to attend in person (*or by a duly authorized agent*) at the Office of the Magistrate of _____ on the day of _____, 18____, at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees _____ [*when sureties are required, add and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of rupees (each, if more than one)*], that you will keep the peace for the term of _____.

Given under my hand and the seal of the Court, this _____ day of _____, 18____.

(Seal.)

(Signature.)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(See section 123.)

To the Superintendent (or Keeper) of the Jail at _____

WHEREAS (*name and address*) appeared before me in person (*or by his authorized agent*) on the day of _____ in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees _____ with one surety (*or a bond with two sureties each in rupees _____*), that he the said (*name*) would keep the peace for the period of _____ months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order;

This is to authorize and require you the said Superintendent (or Keeper) to receive the said (*name*) into your custody together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply with the said order by himself and his surety (or sureties) entering into the said bond, in which case the same shall be received, and the said (*name*) released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18____.

(Seal.)

(Signature.)

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(See section 123.)

To the Superintendent (or Keeper) of the Jail at _____

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the District of _____ having no ostensible means of subsistence (*or, and that he is unable to give any satisfactory account of himself*);

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded from which it appears that he is an habitual robber (*or house-breaker, &c., as the case may be*);

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or two or more sureties, as the case may be*), him-self for rupees _____, and the said surety (*or each of the said sureties*) for rupees _____, and the said (*name*) has failed to comply with the said order, and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorize and require you the said Superintendent (or Keeper) to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless he shall in the meantime comply

FORMS.

SCHEDULE V—*continued*.

with the said order by himself and his surety (or sureties) entering into the said bond, in which case the same shall be received and the said (name) released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(Seal.) _____ (Signature.)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.
(See sections 123 and 124.)

To the Superintendent (or Keeper) of the Jail at _____ (or other officer in whose custody the person is).

WHEREAS (name and description of prisoner) was committed to your custody under warrant of this Court, dated the _____ day of _____, and has since duly given security under section _____ of the Code of Criminal Procedure,

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorize and require you forthwith to discharge the said (name) from your custody, unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(Seal.) _____ (Signature.)

XVI.—ORDER FOR THE REMOVAL OF NUISANCES.
(See section 133.)

To (name, description and address).

WHEREAS it has been made to appear to me that you have caused an obstruction (or nuisance) to persons using the public roadway (or other public place), which, &c. (describe the road or public place), by, &c. (state what it is that causes the obstruction or nuisance), and that such obstruction (or nuisance) still exists;

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (state the particular trade or occupation and the place where it is carried on), and that the same is injurious to the public health (or comfort) by reason (state briefly in what manner the injurious effects are caused), and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner (or are in possession of or have the control over) a certain tank (or well or excavation) adjacent to the public way (describe the thoroughfare), and that the safety of the public is endangered by reason of the said tank (or well or excavation) being without a fence (or insecurely fenced);

or

WHEREAS, &c., &c. (as the case may be);

I do hereby direct and require you within (state the time allowed) to (state what is required to be done to abate the nuisance) or to appear at _____ in the _____ Court of _____ on the _____ day of _____ next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (state the time allowed) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, &c.;

or

I do hereby direct and require you within (state the time allowed) to put up a sufficient fence (state the kind of fence and the part to be fenced), or to appear, &c.

or

I do hereby direct and require you, &c., &c. (as the case may be).

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(Seal.) _____ (Signature.)

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(See section 138.)

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

(See section 140.)

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) _____ (Signature.)

(See section 142.)

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

(See section 143.)

Given under my hand and the seal of the Court, this _____ day of _____, 18____.

(Seal.) _____ (Signature.)

(See section 141.)

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public

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SCHEDULE V—*continued.*

street, &c. (*as the case may be*), and that such procession is likely to lead to a riot or an affray ;

or

WHEREAS, &c., &c. (*as the case may be*) ;

I do hereby order you not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road ;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or, as the case recited may require*).

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, &c., IN DISPUTE.

(See section 145.)

It appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true,

I do decide and declare that he is (*or they are*) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or their*) possession in the meantime.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, &c.

(See section 146.)

To the Police-officer in charge of the Police-station at [*or, To the Collector of*] .

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) [*or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid*] ;

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained ; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANY THING ON LAND OR WATER.

(See section 147.)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or water*) is claimed exclusively by (*describe the person or persons*), and it appearing to me, on due inquiry into the same, that the said land (*or water*) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons, describe him or them*), and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the

SCHEDULE V —continued.

FORMS.

institution of the said inquiry (or if the use is enjoyable only at particular seasons, say "during the last of the seasons at which the same is capable of being enjoyed") ;

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (or retain) possession of the said land (or water) to the exclusion of the enjoyment of the right of use aforesaid, until he (or they) shall obtain the decree or order of a competent Court adjudging him (or them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(See section 169.)

I, (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of ,

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (or on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

I hereby declare myself (or We jointly and severally declare ourselves and each of us) surety (or sureties) for the above-said that he shall attend at , in the Court of , on the day of next (or on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (or we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(See section 170.)

I, (*name*), of (*place*), do hereby bind myself to attend at , in the Court of , at o'clock on the day of next, and then and there to prosecute (or, to prosecute and give evidence, or to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(See section 218.)

The Magistrate of hereby gives notice that he has committed one for trial at the next Sessions ; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, &c. (*state the offence as in the charge*).

Dated this day of , 18 .

(Signature.)

XXVIII.—CHARGES.

(See sections 221, 222, 223.)

(I).—CHARGES WITH ONE HEAD.

(a) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*] as follows:—

(b) That you, on or about the day of , at , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, section 121.

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SCHEDULE V—*continued*.

Penal Code, and within the cognizance of the Court of Session [*when the charge is framed by a Presidency Magistrate, for Court of Session substitute High Court*].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for (b) :—*]

(2) That you, on or about the _____ day of _____, at _____, with the intention of inducing the Honourable A. B., Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(3) That you, being a public servant in the _____ Department, directly accepted from [*state the name*], for another party [*state the name*], a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(4) That you, on or about the _____ day of _____, at _____, did [*or omitted to do, as the case may be*] _____, such conduct being contrary to the provisions of Act _____, section _____, and known by you to be prejudicial to _____, and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(5) That you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in evidence that “ _____ ”, which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(6) That you, on or about the _____ day of _____, at _____, committed culpable homicide not amounting to murder, causing the death of _____, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(7) That you, on or about the _____ day of _____, at _____, abetted the commission of suicide by A. B., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(8) That you, on or about the _____ day of _____, at _____, voluntarily caused grievous hurt to _____, and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(9) That you, on or about the _____ day of _____, at _____, robbed [*state the name*] and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

(10) That you, on or about the _____ day of _____, at _____, committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

[*In cases tried by Magistrates, substitute “within my cognizance” for “within the cognizance of the Court of Session,” and in (c) omit “by the said Court.”*]

(II).—CHARGES WITH TWO OR MORE HEADS.

(a) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*] as follows :—

(b) *First*.—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or High Court*].

Secondly.—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit, attempted to induce another person, by name A. B., to receive it as

SCHEDULE V—*continued.*

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genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[Signature and seal of the Magistrate.]

[To be substituted for (b) :—]

(2) *First.*—That you, on or about the _____ day of _____, at _____, committed murder by causing the death of _____, and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Secondly.—That you, on or about the _____ day of _____, at _____, by causing the death of _____, committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(3) *First.*—That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Secondly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Thirdly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Fourthly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(4) That you, on or about the _____ day of _____, at _____, in the course of the inquiry into _____ before _____, stated in evidence that “_____, and that you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in evidence that “_____, one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates, substitute “within my cognizance” for “within the cognizance of the Court of Session,” and in (c) omit “by the said Court.”]

(III).—CHARGE FOR THEFT AFTER A PREVIOUS CONVICTION.

I (name and office of Magistrate, &c.) hereby charge you (name of accused person) as follows :—

That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code and within the cognizance of the Court of Session [or { High Court, } as the case may be.]

And you the said (name of accused) stand further charged that you, before the committing of the said offence, that is to say, on the _____ day of _____, had been convicted by the (state Court by which conviction was had) at _____ of an offence punishable under

FORMS.

SCHEDULE V—continued.

Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, &c,

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(See sections 245 and 258.)

To the Superintendent (or Keeper) of the Jail at

WHEREAS on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 18 , was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (or sections) of the Indian Penal Code (or of Act), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorize and require you, the said Superintendent (or Keeper) to receive the said (*prisoner's name*) into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXX.—WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER AMENDS BY DISTRESS.

(See section 250.)

To the Superintendent (or Keeper) of the Jail at

WHEREAS (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (or vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXI.—SUMMONS TO A WITNESS.

(See sections 68 and 252.)

To

of

WHEREAS complaint has been made before me that of has (or is suspected to have) committed the offence of (*state the offence concisely, with time and place*) and it appears to me that you are likely to give material evidence for the prosecution;

SCHEDULE V—continued.

FORMS.

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

(See section 326.)

To the District Magistrate of

WHEREAS a Criminal Session is appointed to be held in the Court-house at on the day of next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A. M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(Here enter the names of Jurors and Assessors.)

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXIII.—SUMMONS TO ASSESSOR OR JUROR.

(See section 328.)

To (name) of (place).

PURSUANT to a precept directed to me by the Court of Session of requiring your attendance as an Assessor (or a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (place) at ten o'clock in the forenoon on the day of next.

Given under my hand and seal of office, this day of , 18 .

(Seal.)

(Signature.)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(See section 374.)

To the Superintendent (or Keeper) of the Jail at

WHEREAS at the Session held before me on the day of , 18 , (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of ;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (prisoner's name) into your custody in the said jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

FORMS.

SCHEDULE V—*continued*.

XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

(See section 381.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day of , 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death, and whereas the order of the Court of confirming the said sentence has been received by this Court;

This is to authorize and require you the said Superintendent (or Keeper) to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature)

XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

(See sections 381 and 382.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS at a Session held on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of , punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is herewith annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or, as the case may be*);

This is to authorize and require you, the said Superintendent (or Keeper), safely to keep the said (*prisoner's name*) in your custody in the said jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or
if the mitigated sentence is one of imprisonment, say, after the words "custody in the said jail," "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

XXXVII.—WARRANT TO LEVY A FINE BY DISTRESS AND SALE.

(See section 386.)

To (*name and designation of the Police-officer or other person, or persons, who is or are to execute the warrant*).

WHEREAS (*name and description of the offender*) was on the day of , 18 , convicted before me of the offence of (*mention the offence concisely*) and sentenced to pay a fine of rupees , and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the District of ; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or forthwith*), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

SCHEDULE V—continued.

FORMS

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(See section 480.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS at a Court holden before me on this day (*name and description of the offender*) in the presence (or view) of the Court committed wilful contempt ;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or in default to suffer simple imprisonment for the space of (*state the number of months or days*) ;

This is to authorize and require you, the Superintendent (or Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless the said fine be sooner paid ; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(See section 485.)

To (*name and designation of officer of Court*)

WHEREAS (*name and description*), being summoned (or brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (or certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*) ;

This is to authorize and require you to take the said (*name*) into custody, and him safely keep in your custody for the space of days unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law ; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(See section 488.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [or his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (or himself)] and to have neglected (or refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (or child) for maintenance the monthly sum of rupees ; and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of : And thereupon an order was made adjudging him to undergo simple (or rigorous) imprisonment in the said jail for the period of ;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody in the said jail, together with this warrant, and there carry the said

FORMS.

SCHEDULE V—continued.

order into execution according to law; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(See section 458.)

To (name and designation of the Police-officer or other person to execute the warrant).

WHEREAS an order has been duly made requiring (name) to allow to his said wife (or child) for maintenance the monthly sum of rupees , and whereas the said (name) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of ;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (name) which may be found within the district of , and if within (state the number of days or hours allowed) next after such distress the said sum shall not be paid (or forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum; returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(See sections 496 and 499.)

I, (name), of (place), being brought before the Magistrate of (as the case may be) charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

I hereby declare myself (or We jointly and severally declare ourselves and each of us) surety (or sureties) for the said (name) that he shall attend at the Court of on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and in case of his making default therein, I bind myself (or we bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(See section 500.)

To the Superintendent (or Keeper) of the Jail at (or other officer in whose custody the person is).

WHEREAS (name and description of prisoner) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (or sureties) duly executed a bond under section 499 of the Code of Criminal Procedure;

SCHEDULE V—continued.

FORMS.

This is to authorize and require you forthwith to discharge the said (name) from your custody, unless he is liable to be detained for some other matter.

[illegible]

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(Sec section 514.)

To the Police-officer in charge of the Police-station at

WHEREAS (name, description and address of person) has failed to appear on (mention the occasion) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (the penalty in the bond); and whereas the said (name of person) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him.

This is to authorize and require you to attach any moveable property of the said (name) that you may find within the District of _____, by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

[illegible]

XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(See section 514.)

To _____ of _____

WHEREAS on the day of , 18 , you became surety for (name) of (place) that he should appear before this Court on the day of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (name) has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within _____ days from this date, why payment of the said sum should not be enforced against you.

[illegible]

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See section 514.)

To _____ **of** _____

WHEREAS on the day of , 18 , you became surety by a bond for (name) of (place) that he would be of good behaviour for the period of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India ; and whereas the said (name) has been convicted of the offence of (mention the offence concisely) committed since you became such surety, whereby your security-bond has become forfeited ;

You are hereby required to pay the said penalty of rupees _____, or to show cause within _____ days why it should not be paid.

[illegible]

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(See section 514.)

To

WHEREAS (name, description and address) has bound himself as surety for the appearance of (mention the condition of the bond), and the said (name) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (the penalty in the bond);

FORMS.

SCHEDULE V—continued.

This is to authorize and require you to attach any moveable property of the said (*name*) which you may find within the District of _____, by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(*Seal.*) _____ (*Signature.*)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section 514.*)

To the Superintendent (*or Keeper*) of the Civil Jail at _____.

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of _____ (*state the condition of the bond*), and _____ the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the Civil Jail for (*specify the period*);

This is to authorize and require you, the said Superintendent (*or Keeper*), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said Jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(*Seal.*) _____ (*Signature.*)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name, description and address*).

WHEREAS on the _____ day of _____, 18 ____, you entered into a bond not to commit, &c. (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees _____, or to show cause before me within _____ days why payment of the same should not be enforced against you.

Dated this _____ day of _____, 18 ____.
(*Seal.*) _____ (*Signature.*)

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name and designation of Police-officer*) at the Police-station of _____.

WHEREAS (*name and description*) did on the _____ day of _____, 18 ____, enter into a bond for the sum of rupees _____, binding himself not to commit a breach of the peace, &c. (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

SCHEDULE V—continued.

FORMS.

This is to authorize and require you to attach by seizure moveable property belonging to the said (name) to the value of rupees _____ which you may find within the District of _____, and, if the said sum be not paid within _____, to sell the property so attached, or so much of it as may be sufficient to realize the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this _____
(Seal.)

day of _____, 18 _____.
(Signature)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(See Section 514.)

To the Superintendent (or Keeper) of the Civil Jail at _____

WHEREAS proof has been given before me and duly recorded that (name and description) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees _____, and whereas the said (name) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (name) in the Civil Jail for the period of (term of imprisonment),

This is to authorize and require you, the said Superintendent (or Keeper), of the said Civil Jail to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment), and to return this warrant with an endorsement certifying the manner of its execution

Given under my hand and the seal of the Court, this _____
(Seal.)

day of _____, 18 _____.
(Signature)

LII.—WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See Section 514.)

To the Police-officer in charge of the Police-station at _____

WHEREAS (name, description and address) did on the _____ day of _____, 18 _____, give security by bond in the sum of rupees _____ for the good behaviour of (name, &c., of the principal), and proof has been given before me and duly recorded of the commission by the said (name) of the offence of _____, whereby the said bond has been forfeited; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum,

This is to authorize and require you to attach by seizure moveable property belonging to the said (name) to the value of rupees _____ which you may find within the District of _____, and, if the said sum be not paid within _____, to sell the property so attached, or so much of it as may be sufficient to realize the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this _____
(Seal.)

day of _____, 18 _____.
(Signature)

LIII.—WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See Section 514.)

To the Superintendent (or Keeper) of the Civil Jail at _____

WHEREAS (name, description and address) did on the _____ day of _____, 18 _____, give security by bond in the sum of rupees _____ for the good behaviour of (name, &c., of the principal), and proof of the breach of the said bond has been given before me and duly

FORMS.

SCHEDULE V—concluded.

recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) ; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*)

(*Signature.*)

R. J. CROSTIWAITE,
Offg. Secy. to the Govt of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1882, and is hereby promulgated for general information:—

ACT No. XI OF 1882.

THE INDIAN TARIFF ACT, 1882.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Repeal of Acts.
Saving clause.
3. Duties specified in schedules to be levied.
4. Export of pepper from Cochin.
5. Duties on goods crossing frontiers of Foreign European Settlements in Presidency of Madras, of foreign territory.
Power to declare territory foreign.
6. Excise-duty on spirit distilled in British India.
7. Duty on spirit, opium and salt when protected by a certificate.
8. Application of certain provisions as to duties and goods.
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SCHEDULE I.—ACTS REPEALED.

SCHEDULE II.—IMPORT TARIFF.

SCHEDULE III.—EXPORT TARIFF.

An Act to amend the law relating to Customs Duties, and for other purposes.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India and of the terri-

tories of certain Native Chiefs and for fixing a maximum duty of excise on spirit manufactured in British India; It is hereby enacted as follows:—

1. This Act may be called "The Indian Tariff Act, 1882"
Short title.
Local extent.
Commencement.
It extends to the whole of British India except Aden; and it shall come into force on the passing thereof.
2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein:
But all notifications published, and rules and orders made, under any of such Acts, and now in force, shall, so far as they are consistent herewith, be deemed to have been respectively published and made hereunder:
All references made to the Indian Tariff Act, 1875, in Acts or Regulations passed before this Act comes into force, shall be deemed to be made to this Act:
And nothing herein contained authorizes the levy of duties of customs on any article carried from one port in British India to another, except salt, opium and spirit.
3. There shall be levied and collected, in every port to which this Act applies, the duties specified in the second and third schedules hereto annexed.
4. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council from time to time determines; and at the close of each year, or as soon thereafter as may be convenient, the Customs-collector at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council from time to time directs.
5. Duties of customs shall be levied at the rates respectively prescribed in the second and third schedules hereto annexed on goods passing by land out of or into—
(a) Foreign European Settlements situate on the line of coast within the limits of the Presidency of Fort Saint George;
(b) any territory declared, under the power next hereinafter conferred, to be foreign territory.

thereunder, every owner or occupier of land in any patwári's circle, and the agent of every such owner or occupier, shall furnish to the patwári of such circle, the kánúngo or such person as the Deputy Commissioner may appoint in this behalf, such information, at such times, as the Chief Commissioner may from time to time by rule prescribe.

Explanation.—"Owner" in this section includes also a superior and an inferior proprietor, and a lessee, mortgagee or conditional vendee, in possession.

10. No suit shall be brought by a landlord for recovery of against a tenant for the patwári cess barred recovery of any cess or rate accruing due after the thirtieth day of June, 1882,

and payable, in money or in kind, by such tenant on account of the remuneration of a patwári.

11. Sections one, ten and this section extend to the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh. Sections two, three and four extend to the territories administered by the said Lieutenant-Governor, and sections five to nine (both inclusive) extend to the territories administered by the said Chief Commissioner.

R. J. CROSTHWAITE,

Offg Secy to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 11, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd February, 1882, and was referred to a Select Committee :—

No. 5 OF 1882.

THE BURMA STEAM-BOILERS AND PRIME-MOVERS BILL, 1882.

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SCHEDULE.—FORM OF LICENSE.

A Bill to provide for the inspection of Steam-boilers and Prime-movers attached thereto in British Burma.

WHEREAS it is expedient to provide for the inspection of steam-boilers and prime-movers attached thereto in British Burma; It is hereby enacted as follows :—

I.—Preliminary.

1. This Act may be called “The British Burma Steam-boilers and Prime-movers Act, 1882”;

and it shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, may direct by notification in the *British Burma Gazette*.

It extends in the first instance to the towns of Rangoon, Maulmain, Akyab and Bassein;

and the Local Government may, by notification in the *British Burma Gazette*, extend it, from such date as may be specified in the notification, to any other local area in the territories administered by such Government.

Nothing herein contained shall apply to any locomotive engine used upon a railway or to any engine on board of a ship, launch or boat.

2. In this Act, unless there is something repugnant in the subject or context,—

“Boiler” includes any vessel used for generating steam under pressure :

“Boiler :”

“Prime-mover” includes any steam-engine, and, when attached to any such engine, a fly-wheel, first driving shaft or pulley :

“Owner” includes also any person using any boiler or prime-mover as agent of the owner thereof, and any person using a boiler

or prime-mover which he has hired from the owner thereof.

“Inspector” means a person appointed under this Act to be an Inspector.

II.—Inspectors and Engineers.

3. The Local Government may from time to time appoint such persons to be Inspectors as it thinks fit, and suspend or remove any person so appointed.

Such persons shall, within such local area as the Local Government may from time to time direct, exercise the powers, and perform the duties, conferred and imposed by this Act on an Inspector.

4. The Local Government may from time to time make rules regulating the examination of, and the grant (with or without examination) of certificates to, persons to act as engineers of the first or second class under this Act, and the cancellation of certificates so granted.

III.—Inspection of Boilers, &c.

5. No boiler or prime-mover shall be used unless and until a license authorizing such use has been granted hereunder, and unless such boiler or prime-mover is in charge of an engineer to whom a certificate has been granted in accordance with the rules made under section four.

6. When the owner of any boiler or prime-mover desires to obtain a license in respect thereof, he shall give notice of his intention to use the same to the Inspector for the local area within which the boiler or prime-mover is situate. On receipt of such notice, the Inspector shall appoint a day and time, after sunrise and before sunset, for the inspection of such boiler or prime-mover.

The day so appointed shall be a day, if the boiler or prime-mover is situate in Rangoon, not later than seven days, and if it is situate elsewhere, not later than thirty days, from the day on which such notice is received. On the day and at the time so appointed, the Inspector shall carefully examine such boiler or prime-mover, and every part thereof; and the owner or person in charge thereof shall afford to such Inspector all reasonable facilities for such examination and all such information regarding such boiler or prime-mover as he may reasonably require.

When any boiler or prime-mover is in charge of an engineer who has obtained under section four a certificate as engineer of the first class, the Local Government may appoint such engineer to be Inspector with regard to such boiler or prime-mover, and in that case no other Inspector shall examine such boiler or prime-mover.

7. If, on making the examination under section six, the Inspector is of opinion that the boiler or prime-mover requires any alteration or addition, he shall refuse to grant a license until such alteration or addition is made, and shall serve on the owner of the boiler or prime-mover a written notice of such refusal specifying the alteration or addition which in such Inspector's opinion is required.

8. If the Inspector is satisfied that such boiler or prime-mover is in good condition, and not so exposed as to be likely to be dangerous, and, when a notice has been served under section seven, that the alteration or addition specified in such notice has been properly made,

and that such boiler or prime-mover is in charge of an engineer to whom a certificate has been granted in accordance with the rules made hereunder,

he shall give to the owner thereof a written license signed by him in the form in the schedule hereto annexed, on payment, by such owner, of such fee as the Local Government may by rule prescribe.

Such license shall state the period for which such boiler or prime-mover may be used, and shall cease to be in force on the expiration of such period.

9. Any person authorized by the Chief Commissioner in this behalf may revoke or suspend any license granted under this Act in respect of any boiler or prime-mover when he has reason to believe—

- (a) that such license has been fraudulently obtained, or has been granted erroneously, or without sufficient examination;
- (b) that the boiler or prime-mover in respect of which it has been granted is not in charge of an engineer to whom a certificate has been granted hereunder or is not in good condition, or has, since the granting of such license, sustained injury.

10. The owner of any boiler or prime-mover may appeal from any order made hereunder refusing to grant, or revoking or suspending, a license. Such appeal shall, within seven days from the day on which such owner received the order appealed against, be presented to some person authorized by the Chief Commissioner to hear appeals hereunder. Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code, and may, if he thinks fit, summon to his assistance, in such manner as the Local Government may from time to time direct, two competent assessors, and such assessors shall attend and assist accordingly.

If such person is satisfied that such owner is entitled to such license, he shall, on payment of the fee, grant a license in the form in the schedule hereto annexed, or shall cancel the order revoking or suspending the license, as the case may be.

If such person is of opinion that the order appealed against is right, he shall dismiss the appeal, and the costs of the appeal incurred by Government and certified by him shall be recoverable from the appellant as a fine by any Magistrate having jurisdiction in the place where the boiler or prime-mover is situate.

11. Except as provided in section six, any Inspector may at any time enter into any place or building, where he has reason to believe that a boiler or prime-mover is used, for the purpose of inspecting and examining the same.

12. Every owner, or person in charge, of any boiler or prime-mover who uses the same in contravention of the provisions of section five, and

every such owner or person who uses any boiler or prime-mover and who fails to produce the license granted hereunder in respect thereof, when called upon at any reasonable time to do so by any Magistrate having jurisdiction in the place in which such boiler or prime-mover is situate, or by any person authorized in writing by such Magistrate to demand the production of such license, and

14. The Local Government may, from time to time, define what shall be deemed to be for the purposes of this Act the local limits of the towns of Rangoon, Maulmain, Akyab and Bassein, respectively.

All such rules shall be published thrice in the *British Burma Gazette*, and shall come into force on the day on which they are last so published, or on such later day as may be specified in the notification publishing them.

FORM OF LICENSE.

[illegible]

A. B.,
Inspector.

STATEMENT OF OBJECTS AND REASONS.

THE recent increase in the use of steam-power in British Burma for rice-mills, sawing timber and other purposes is considerable, and will probably continue. Where the steam-engines are under the control of competent European workmen, there is not much danger of accidents; but, in Rangoon and other towns in that Province, steam-engines are sometimes placed in charge of persons who have no knowledge of steam or the steam-engine. Unless while working they are tended by skilled workmen, boilers and prime-movers are liable to speedy decay through wear and tear and neglect, and become dangerous. There is also danger from repairs to boilers and prime-movers being executed by unskilled workmen.

At present, the Government has no power of ascertaining that proper precautions are taken to prevent accidents, and it is obviously desirable, in the interests of workmen and others employed in connection with steam-engines, that such power should be given. The present Bill has accordingly been prepared on the lines of Bengal Act No. III of 1879, which provides for the periodical inspection of steam-boilers and prime-movers in the town and suburbs of Calcutta and in Howrah. It empowers the Local Government to appoint an inspector to examine boilers and prime-movers and to grant licenses authorizing their use; and it prohibits the use of boilers and prime-movers for which licenses have not been granted, and which are not in charge of engineers to whom certificates have been given. The Bill also gives power to the Local Government to provide for the examination of, and the grant of certificates to, persons to act as engineers of the first or second class. Where boilers and prime-movers are in charge of a first class engineer, the Bill provides that he may be appointed inspector of such boilers and prime-movers, which will not in that case be liable to any other inspection.

WHITLEY STOKES.

The 21st February, 1882.

R. J. CROSTHWAITE,
Offg Secy. to the Govt. of India.



SUPPLEMENT TO The Gazette of India.

Nº 10.} CALCUTTA, SATURDAY, MARCH 11, 1882.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE OF INDIA will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta or nine Rupees if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE OF INDIA is required by Law, or which it has been customary to publish in the CALCUTTA GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to.

GOVERNMENT OF INDIA LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.

The Council met at Government House on Wednesday, the 8th March, 1882.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.G., G.M.S.I.
G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

His Excellency the Commander-in-Chief, G.C.B., C.I.E.

The Hon'ble Whitley Stokes, C.S.I., C.I.E.

The Hon'ble Rivers Thompson, C.S.I., C.I.E.

The Hon'ble J. Gibbs, C.S.I., C.I.E.

Major the Hon'ble E. Baring, R.A., C.S.I., C.I.E.

Major-General the Hon'ble T. F. Wilson, C.B., C.I.E.

The Hon'ble Mahārājā Jotindra Mohan Tagore, C.S.I.

The Hon'ble L. Forbes.

The Hon'ble C. H. T. Crosthwaite.

The Hon'ble A. B. Inglis.

The Hon'ble Rājā Sivā Prasād, C.S.I.

The Hon'ble W. C. Plowden.

The Hon'ble W. W. Hunter, C.I.E., LL.D.

The Hon'ble Sayyad Ahmad Khān Bahādur, C.S.I.

The Hon'ble Durgā Charan Lāhā.

The Hon'ble H. J. Reynolds.

FINANCIAL STATEMENT.

Major the Hon'ble EVELYN BARING said :—

I.—Preliminary.

MY LORD,—I wish to preface the Statement I am about to make by explaining that the figures are throughout given in pounds, rupees being converted into pounds at the conventional rate of £1 = Rs. 10. There are some obvious inconveniences in the adoption of this system, but the alternative procedure of giving the figures in rupees would render a comparison with the Accounts of former years difficult, unless the whole of those Accounts were

Preliminary.

~~For the present the convenience of the existing system, which the Council~~

**Publication of
monthly abstract
accounts**

17. The importance of obtaining early information in respect to the progress of the Revenue and Expenditure of the country was brought prominently to notice in connection with the failure of the War Estimates. I mentioned in the last Financial Statement (para. 25) that we proposed that every officer in charge of a Treasury should, for the future, furnish to the Accountant General of his province an abstract account at the close of each month, giving his receipts and outgoings for the past month under five main heads of Revenue and Expenditure. This system has been carried out and has proved very successful. It has generally been possible for the Comptroller General to make up the complete abstract account for all India by the tenth day after the close of the month. The figures thus obtained are, of course, not absolutely accurate, inasmuch as many adjustments have subsequently to be made; but they are sufficiently accurate to enable a very fair idea to be formed of the progress of the Revenue and Expenditure. These monthly abstracts are now published in the *Gazette of India*.

**Creation of a
Deputy Secretary
of Finance in the
Military Department.**

18. It has been decided that the Military Accountant General should occupy the position, and exercise the authority, of a Deputy Secretary of Finance in the Military Department. His precise position and functions were defined in a Government Resolution of July 22nd, 1881. (See *Gazette of India* of July 22nd, 1881.)

**Report of the Comptroller General
on the Accounts
of the year**

19. I stated last year that in future the Comptroller General would submit to the Government of India annually a report, in which the Accounts of the year would be compared with the Estimates of that year, and explanations given of the causes of increase and decrease. The Comptroller General has accordingly made his report on the Accounts of the year 1880-81, and it has been published for general information. (See *Gazette of India* of March 4th, 1882.)

**Establishment of
an independent
Appropriation
Audit.**

20. The expediency of establishing in India an independent Appropriation Audit to supplement the present Departmental Audit has been under the consideration of the Government. We are in communication with the Secretary of State upon this subject, but I am not as yet in a position to announce what the final decision of Government will be.

**Changes in Treasury
administration.**

21. The question of the administration of district Treasuries has been under the consideration of the Government. Numerous fraudulent transactions have taken place within the last few years in almost every Province of India. The measures which have been taken to improve the system of Treasury administration were set forth in a recent Government Resolution (see *Gazette of India* of January 21st, 1882). The question of the inspection of Treasuries is still under consideration. The present system is not altogether satisfactory, and we hope shortly to be able to adopt measures with a view to its improvement.

IV.—Improvement in the position of the Subordinate Executive Services.

**Subordinate
Executive
Services.**

22. Before proceeding to compare the Budget and Regular Estimates for the current year it will be convenient that I should give some explanations in respect to certain subjects which have recently occupied the attention of Government. These explanations are, in fact, necessary to the true comprehension of the figures as set forth in the Regular Estimates. The first subject to which I have to allude is the pay and position of the Subordinate Executive Services of Government.

**Importance of
Deputy Collectors.**

23. Both from the political and administrative point of view the class of Deputy Collectors is one of very great importance. A large proportion of the sub-divisional charges of British India is in their hands. The sub-divisional officer is the man upon whom, in quiet times, the Government has to rely for efficient and equitable administration, and, in time of famine or disturbance, for energy, resource, and fortitude. Whether recruited from among the Tahsildar and Sub-Deputy class, or directly from without, they ought to be the cream of that portion of the Native community who are willing to embrace an official career. To fulfil this requirement they ought to receive sufficient pay throughout their career.

**Importance of
Tahsildars, &c.**

24. The Tahsildars, Mamlatdars, Sub-Deputies, and other similar officers, however designated, are also a class entrusted with very considerable powers, revenue, magisterial, civil, or all combined, as the case may be. A large proportion of the disputes which arise between man and man in ordinary life are decided by them, and go no further. In Western and Southern India, a superior Mamlatdar usually has the powers of a 2nd class, and sometimes

those of a 1st class Magistrate, and occasionally is responsible for as much as six lakhs of rupees of revenue. As a class, they are highly efficient and laborious.

25. There are at present 631 Deputy Collectors and Extra Assistant Commissioners, and 893 Tahsildars, Mamlatdars, Sub-Deputies, Mukhtyarkars, Myokes, &c., in all India. The former receive salaries varying from Rs. 150 to Rs. 800 a month. The salaries of the latter vary from Rs. 50 to Rs. 250 a month.

Number and pay of Deputy Collectors, Tahsildars, &c.

26. A study of the details of the subject leads to the following conclusions; (1) that there are great differences in the rates of pay given in different provinces; (2) that in some provinces extremely low remuneration is given for duties of a highly responsible character; and (3) that there is a want of uniformity in the proportions of officers in the several grades, and consequently great irregularity in promotion.

Defects of present system.

27. It would appear that, though an absolutely uniform scale of pay for all India is not indispensable, there is room for a considerable measure of equalisation. On the other hand, a uniform percentage proportion between grades, whatever they may be in any locality, is required, in order to secure due promotion during the period of service for pension, which is, under the Pension Code, the same everywhere.

Necessity of equalisation.

28. The Government of India is of opinion that, as a broad rule, no officer holding the power and responsibility of a Deputy Collector should receive less than Rs. 300 a month. It may be that in some parts of India Rs. 250 is really equivalent to Rs. 300 elsewhere. But below Rs. 250 it seems undesirable to go, and this rate, even when retained, should be reserved for probationers, or for a grade which would in ordinary course of promotion be passed through in not more than three years.

Minimum pay of Deputy Collectors.

29. The minimum pay being thus settled, the next question is that of a suitable maximum. Rs. 800 a month appears to be by no means too high a maximum for general adoption. If in any provinces there be financial or other difficulties in the way of granting so much,¹ then the limit should at any rate not be below Rs. 600.

Maximum pay of Deputy Collectors.

30. Turning to the question of the Tahsildars, Mamlatdars, &c., the Government is of opinion that Rs. 150 a month should be the minimum pay for this class. There may be instances where local peculiarities in the charge render Rs. 100 a month sufficient, but this should be admitted with caution; and salaries of Rs. 70—or, as in Sind, of Rs. 50—should be unhesitatingly raised wherever attached to posts belonging *bonâ fide* to the class under consideration. The maximum, on the other hand, should be Rs. 250 a month, which has already prevailed for many years in Western and Southern India, and which will be unexceptionable in any Province where the minimum for Deputy Collectors is fixed at Rs. 300 a month. Where the minimum for the latter is Rs. 250 only, the maximum for Tahsildars, &c., might, as a general rule, remain at Rs. 200 (as it mostly now is); but a limited number of posts on Rs. 250 should be constituted, to serve as prizes for the numerous officers who, though highly meritorious, cannot be promoted to Deputy Collectorships, owing to imperfect knowledge of English, or other causes. The grades admissible under any circumstances might, therefore, be Rs. 250, 200, 175, 150, and, in some exceptional cases, 100.

Maximum and Minimum pay of Tahsildars, &c.

31. I will not lengthen this Statement by entering into the question of the proportion of grades at which the establishments should be fixed. I will only observe that this important subject has, in communication with the several Local Governments, received very careful attention.

Proportion of Grades.

32. It is obvious that these changes cannot be carried out without some additional expenditure. But such expenditure is inevitable under the progressing civilisation and circumstances of India, and is, in fact, now actually being incurred. The Local Governments have been availing themselves freely of their resources under the Provincial system of finance, and their power to create new offices not exceeding Rs. 250 a month in value. Where these are insufficient, they come up to the Government of India. Large proposals from Assam, Burma, and Sind have been received for separate consideration. The Government of India, however, deems it better to recognise the necessity for general revision, and to meet it by a scheme the most uniform, equitable, and economical that can be devised, than to wait until each Local Government is forced by necessity to adopt or to propose some fragment of reform. The proposed revisions

Cost of proposed reforms.

¹ In Burma it would seem that, while high cost of living necessitates a minimum of Rs. 300, it may be desirable to hold the posts in excess of Rs. 600 a month in abeyance for a time until suitable promotion can be made to them from the grade below.

affecting Deputy Collectors and Tahsildars will cost about £50,000 a year. This is in comparison with the cost at the present time. It does not cover any increases to the numerical strength of the existing establishments, which are as yet only proposed and under discussion. Against this increased charge, however, there is a large saving arising from the reduction in the numbers of the Covenanted Service, including Military, &c., in the Commissions, which it appears only fair to take as a set-off. The reduction since 1st July 1871 has been to the extent of 133 officers. The saving owing to this reduction amounts to a total of £79,500 a year, while the additional expenditure on account of Deputy Collectors during the same period does not exceed £25,000 a year, so that, after giving all the increase which is now proposed, the superior administration will still be less costly than it was. As will be presently explained, in revising the Provincial contracts money has been placed at the disposal of the Local Governments which will enable the changes I have described to be carried out. In some Provinces it is hoped that the new scheme will come into operation on April 1st, and in all it will very shortly be adopted.

Tahsildars to be allowed to rise to the rank of Deputy Collector.

33. It may be desirable to explain that, while laying down distinct scales of pay and proportion for the Deputy Collector and Tahsildar classes, the Government of India has no intention of drawing any impassable line between the two. The Local Governments will remain, as at present, entirely unfettered in their decision as to whether they will fill vacancies in either class by promotion from among the members of the public service immediately below it, or by nomination, after sufficient probation in a somewhat lower office, of young men of good education or family who have been previously unemployed. It is well known that some of the most distinguished Native officers in high positions have risen from the very lowest grades in the District Staff, and the Government of India desires it to be distinctly understood that this avenue, by which men of ability and judgment may raise themselves from humble beginnings to any post in the Uncovenanted Service, should remain open as at present.

Increased employment of Natives of India in the Public Service.

34. Before leaving this subject I wish to observe that, while the number of European officers employed in the Civil Service has been largely reduced, the business of civil administration shows no diminution, but is likely to increase with the progress of the social, industrial, and commercial needs of the growing population. It is the intention of Her Majesty's Government and of the Government of India that a constantly increasing share of the work of the country shall be performed by Natives of India. Not only will this gradual change add to the ties which already bind educated Natives and the chief Native families to the British Government, but the work will be performed more economically than hitherto. The number of Native gentlemen holding offices of trust and position has increased during the last three years, and will continue to do so under the combined influence of the annual admissions to the Covenanted Civil Service in both England and India, and the rules of 1879 regarding appointments to the Uncovenanted Service. A strict observance of the latter by Local Governments and Administrations is indispensable, and will be enforced by Her Majesty's Secretary of State and by the Government of India. In this way the Government of India has every confidence that the intentions of Her Majesty's Government both at Home and in India will meet with fulfilment, and the reasonable aspirations of the people of India be in due time satisfied.

Proportion of Europeans and Natives now employed.

35. As the question of the degree to which Natives of India are already employed in the work of Government is frequently discussed, and as erroneous statements on the subject are not unfrequently made, it will perhaps be as well that I should state the precise facts as they now stand.

36. An analysis of the services, according to their composition as regards

Nationality	Covenanted	Uncovenanted	Total
Europeans	861	1,197	2,058
Natives	12	2,012	2,024
Total	873	3,209	4,082

Europeans and Natives, shows that at the present time the working body of 4,082 officers is made up in the manner specified in the margin.¹ It must be remembered, in considering the figures given in this table, that under the recent rules, the Covenanted Service will gradually come to contain one-sixth of Natives appointed in India, in addition to any Natives who may enter by public competition in England. The

¹ This table has been constructed with the object of showing all branches of the public service which are directly engaged in the government or administration of the country, but not such as are concerned with its moral and material development, or the rendering of service to the community on payment. Thus, Police, Forests, Political, Jails, and Registration have been included. On the other hand, Public Works, Mints, Telegraphs, Education, Survey, Post Office, and some other miscellaneous offices, have been excluded.

number of the latter will, it is hoped, increase hereafter, under the combined influence of the breaking down of social and religious obstacles, and of the facilities now offered to Natives for study in England by the Society presided over by Lord Northbrook, and otherwise. On the other hand, the admission of Europeans to the general Uncovenanted Service has been forbidden and they will gradually disappear from its ranks.

V.—Provincialisation of Finances and development of Local Self-Government.

37. The next subject to which I have to allude is the Provincialisation of the Finances and the development of Local Self-Government. The attitude of the Government in respect to these important questions has been described in two recent Resolutions, dated respectively September 30th, 1881, and January 17th, 1882 (see *Gazette of India* of September 30th, 1881, and of January 17th, 1882). It is unnecessary that I should, on the present occasion, recapitulate all that is said in those Resolutions. The two subjects with which they deal are separate, though connected. In respect to the first, namely, the Provincialisation of the Finances, the arrangements which are to obtain between the Imperial and Provincial Governments for the next five years, commencing from the 1st April 1882, have now been settled. In respect to the second, namely, the development of Local Self-Government, much yet remains to be done.

(a) *Provincialisation of the Finances.*

38. Turning first to the question of the Provincialisation of the Finances, it will be remembered that the principles of the new arrangements differ, in two important particulars, from those which were adopted on the occasion of the last general settlement in 1877.

39. In the first place, all the new Provincial settlements have now been based upon the principle which was adopted in 1879 in respect to Burma. That principle is that instead of giving Local Governments, as heretofore, a fixed sum of money to make good any excess of provincialised expenditure over provincialised receipts, a certain proportion of the Imperial Revenue of each province is for the future to be devoted to this object. Certain heads, as few in number as possible, are wholly, or with minute local exceptions only, reserved as Imperial. Others are divided in proportions, for the most part equal, between Imperial and Provincial. The rest are wholly, or with minute local exceptions only, made Provincial. The balance of revenues and charges thus made Provincial, being against the Local Governments, will be rectified for each Province by a fixed percentage on its Land Revenue (otherwise reserved as Imperial), excepting in the case of Burma, where the percentage will be extended to the Imperial rice export duty and the Salt Revenue also. The advantage of this system over that which has hitherto generally prevailed is that the Provincial Governments will be given a direct interest, not only in the Provincialised Revenue, but also in the most important item of Imperial Revenue raised within their own Provinces.¹

40. The general result of these arrangements is that about three-fifths of the Revenue of British India, amounting roughly to £42,000,000, and about one-fourth of the Expenditure, amounting roughly to £19,000,000, will be Provincialised; that is to say, the Provincial Governments will have to a greater or less extent, according to the circumstances of each head, an interest in and responsibility for their administration. To be more explicit, they will receive the whole of the Revenue under heads which produce about £4,000,000, half of the Revenue under heads which produce about £8,000,000, a larger or smaller percentage on heads (chiefly Land Revenue) which produce about £23,000,000, and an almost nominal share in Revenues which produce £7,000,000; while they will administer the expenditure wholly under heads for which the grants amount to about £15,000,000, and to a very small extent under heads for which the grants amount to £4,000,000.

¹ I may mention that before leaving India, Sir John Strachey left on record a draft Resolution under which the new contracts with the Provincial Governments were to be regulated on the plan explained in para. 39. The details have, of course, undergone revision, but the principle advocated by Sir John Strachey has been adopted by the present Government. The other main features in the new scheme, viz., (1) the relations between the Imperial and Provincial Governments in time of war and famine, and (2) the project which, for want of a better name, I term the "de-provincialisation" of the finances, have been grafted on to the original plan since Sir John Strachey left India.

*Relations between
the Imperial and
Provincial Govern-
ments in respect to
War and Famine.*

41. In the second place, the relations of the Imperial and Provincial Governments in respect to war and famine have been defined. Under the existing agreements, a Local Government is not entitled to any assistance from the Imperial Government until the whole of its resources are exhausted. For the future the Local Governments must look for no special aid from the Imperial Government, except in the case of severe famine, and then only within certain limits, which are defined in the 8th paragraph of the Resolution of September 30th, 1881. Those limits are fixed with reference to the resources of each Province, and not to the amount expended in famine relief. Aid will be afforded at an earlier point than before. On the other hand, the Government of India has declared that it will make no demand on the Provincial Governments except in the case of disaster so abnormal as to exhaust the Imperial reserves and resources, and to necessitate the suspension of the entire machinery of public improvement throughout the empire. A special and permanent annual allotment of £1,500,000 for Famine Relief and Insurance having been made in the Imperial Budget, the Governments of the North-Western Provinces, the Punjab, and the Central Provinces are henceforth relieved from any obligations, which may have been imposed upon them, of setting aside any special Revenues with a view to the relief and prevention of famine in their respective territories. All Local Governments will, indeed, find it necessary to keep in hand a moderate reserve, over and above a mere working balance, of sufficient amount to meet scarcity and distress, not indisputably amounting to severe famine, or other temporary exigencies. But it will no longer be necessary for them to accumulate any great Provincial reserve funds out of which to meet the demands of severe famine. Where any such reserve funds have been accumulated, they will be free to be employed in works of a Productive or a Protective character.

*Repayment of War
contributions*

42. The satisfactory position of the finances has enabled the Imperial Government to restore to the Provincial Governments the contributions, amounting to £670,000, which were paid by these latter Governments in the years 1879-80 and 1880-81, at a time when, by reason of the Afghan War, the strain on the Imperial finances was severe.

*Financial effect
of new contracts.*

43. It remains for me to explain what will be the financial effect of the new Provincial contracts. I need hardly say that when the contracts, which are about to close, were made, the Government of India reserved to itself the right of revising them on expiry. It is, indeed, obvious that, in view of the manifold demands on the Imperial Treasury, and the necessity for affording relief to Provinces whose means are straitened, the Government of India cannot forego all its claims on the increments of Revenue which arise from the growing wealth and prosperity of the country. We have, however, wished to approach this question in a liberal spirit, and not to make any revision which will be favorable to the Imperial at the expense of the Provincial Revenues, except in cases where this course can be adopted without embarrassing Provincial Finance or checking the growth of the material prosperity of the Province. I shall presently show (para. 94) that the net result to the Imperial Government has been a loss of Revenue.

Bombay.

44. *Bombay.*—The settlement which was made with Bombay in 1877 was less favorable to the Provincial Government than in the case of most of the other Provinces. We do not propose, therefore, that Bombay should be asked to submit to any revision favorable to the Imperial Revenue. The new contract will be based on the Regular Estimate of the current year, and a sum of £4,800 will be added to the Imperial assignment to cover the cost of improving the position of the subordinate Civil Services.

Madras.

45. *Madras.*—The case of Madras differs entirely from that of any other Local Government. The Government of Madras declined to accept the more independent position offered to it in 1877, and is, therefore, still under the old Provincial arrangement of 1870. Under this arrangement the amount of provincialised Revenue and Expenditure was relatively very small. Taking the figures of the Budget Estimate for the current year, the amount of the provincialised Revenue stood at about £197,000, and the amount of provincialised Expenditure at £1,051,800. The balance of about £855,000 was made good by an Imperial allotment. Under the new arrangement, which has been concluded with the Madras Government, the provincialised Revenue will amount to about £2,178,000 and the provincialised Expenditure will, of course, be equivalent. The Government of India has granted to Madras an extra sum of £20,000 a year for Provincial Public Works. The Government of Madras has asked for a further sum of about £100,000 a year for various objects, but as

the submission of detailed proposals, and in some cases the sanction of the Secretary of State, must necessarily precede any actual grant for these objects, it has been decided to leave them outside the new settlement to come into operation on April 1st, 1882, and to grant hereafter, by means of a revision of the percentage of Land Revenue assigned, whatever extra charge may be finally allowed.

46. *Bengal.*—The terms of the Provincial Contract of 1877 were exceptionally favorable to the Government of Bengal. It was at that time thought that a considerable burden would be imposed upon Bengal in order to guarantee to the Imperial Revenue the interest on the capital spent in Bengal on the construction of Canals and Railways. The Government of India, therefore, consented at the time to abstain from claiming any part of the further increase which might be expected to the Provincial Revenues in consequence of the greater attention which it was thought they would receive from the Local Government. At the same time it was added that “while the Government of India is most desirous that the Local Government should benefit largely by any increase of Revenue to which improved administration may lead, it is evidently reasonable and necessary that the Imperial Revenues should eventually share in such increases.”

47. The Railway receipts have increased by £150,000 in the last three years and are now more than enough to cover the whole of the expenses, including interest. I need not, however, dwell at length on this subject. It is well known that the financial condition of Bengal, partly owing to the great natural resources of the Province and partly to the able and vigorous administration of the present Lieutenant-Governor, is very flourishing. We are of opinion, therefore, that, without in any way embarrassing Bengal finances, we may withdraw from Bengal some portion of the grant from Imperial Revenues, which it has enjoyed during the last five years, and indeed, that in justice to other Provinces we ought to do so. A careful examination of the figures leads to the conclusion that the grant might fairly be reduced by £300,000 a year. On the other hand, the measures under contemplation for the improvement of the subordinate Civil Services, as well as the cost of creating a new district (Khulna), will throw an extra charge of about £30,000 a year on the Bengal Government. Making due allowance for this increased charge, a sum of £270,000 a year would remain as the amount of revision in favor of the Imperial Government. In order, however, that the Bengal Government should not be in any way embarrassed by an immediate change, and in order that the Provincial Revenue should have time to grow, we propose to grant a remission of £285,000, which will be credited to the Government of Bengal in the Accounts of the current year. This is tantamount to a grant of £57,000 a year for five years, but the Government of Bengal will be able to spread it over the period in any way which it may find will make the revision press most lightly on its finances. The real amount of the revision adverse to Bengal will, therefore, be £213,000 annually.

48. *Punjab.*—The provincialized Revenue of the Punjab has increased during the last five years at only a slightly less rapid rate than in the case of Bengal and the North-Western Provinces. Looking at the rate of increase only, a revision in favor of Imperial funds might fairly be demanded; but the Province has many wants. We do not propose, therefore, to demand anything from the Punjab, but the Provincial Revenues will bear the cost (about £4,000) which will be involved in improving the position of the subordinate Civil Services.

49. *Assam.*—Assam is a poor Province with many wants. The new contract has, therefore, been based on the Regular Estimate of the year, and an extra grant of £3,100 will be given from Imperial funds to improve the position of the subordinate Civil Services.

50. *Central Provinces.*—The finance of the Central Provinces is in a very flourishing condition. If the new contract were made on the basis of present figures, the Local Government would start with a balance of £146,000 in hand, a surplus of above £12,500, and a normal increment of £15,000 more, independently of gain anticipated from the Railway, which is now under construction and is being fast pushed to completion. According to mere percentages, indeed,

the position of the Central Provinces is even more favorable than that of Bengal. A revision to the extent of £15,000 a year might fairly have been claimed. On the other hand, the Central Provinces are notoriously behind-hand in administrative organisation and material development. The strength of Extra Assistant Commissioners is insufficient for the due performance of Treasury and other duties, and a large proportion of civil litigation is in the hands of Naib Tahsildars drawing only from Rs. 50 to Rs. 70 a month. Further, the system of roads in the Province is very far from complete. For this state of affairs the Local Government is in no way to blame. The establishments were fixed some twenty years ago, since which time trade, population, revenue, and work, have increased till it is impossible for the existing staff to do justice to the duties imposed upon them. The present Chief Commissioner deserves high credit for having recognised that the wants of a poor Province can only be satisfied within the limits of its income. Under the circumstances, however, we should not be justified in curtailing, in however small a degree, the financial means of the Province. We have, therefore, waived any demand for revision in our favor on the understanding that the Chief Commissioner will relieve the smaller Municipalities of Police charges without imposing an equivalent, and will provide out of Provincial Revenues for such increases of establishment as may be necessary, including the cost of improving the position of the Extra Assistant Commissioners and Tahsildars, under the scheme now put forward, which will be about £3,000 a year.

Burma.

51. *Burma.*—The existing contract with Burma was entered into at the commencement of the year 1878-79, and was intended to last for five years. It would consequently run until the end of 1882-83 but for the consent, which the Chief Commissioner has given, to its being superseded by another on the new general terms.

52. The case of Burma is somewhat special, and I will not lengthen this Statement by entering into the details, which are complicated. It will be sufficient for me to say that we propose to place Burma in such a position as that the Provincial Government will earn an increase during the next five years proportionately equal to that which Bengal has obtained during the agreement now expiring. That agreement, I need hardly say, has operated most favorably to the Provincial Government. An extra grant of £10,000 a year will be given to Burma for improving the position of the subordinate Civil Services.

Abolition of duty
on timber.

53. On the occasion of the visit recently paid by His Excellency the Viceroy to Burma, it was represented by the merchants interested in the timber trade of Moulmein, that various objections might be urged against the duty of 7 per cent. levied upon timber brought from the Karennee territory down the Salween River. Those objections were held to be valid. The duty has, therefore, been reduced to 1 per cent. The loss of Revenue consequent on this reduction is estimated at £25,000 a year. Half of this loss will eventually be borne by the Provincial, and half by the Imperial Revenues; but it has been arranged that a temporary grant of £10,000 a year for two years shall be made from the Imperial Revenues to Provincial funds, on the understanding that, should it be eventually determined to establish a Chief Court at Rangoon, the cost of the new establishments will devolve upon the Provincial Revenues.

54. In order not to complicate the new contract with special provisos applicable to the first year or two only, a cash grant of £20,000, and also the sum, if any, by which Burma may, by the new contract, be placed in 1882-83 in a worse position than under the old, will be placed to the credit of the Provincial Accounts before the 31st March 1882.

North-Western
Provinces and
Oudh.

55. *North-Western Provinces and Oudh.*—The case of the North-Western Provinces and Oudh requires to be treated somewhat more fully than that of other provinces.

56. The Revenue of the North-Western Provinces has increased, during the currency of the contract about to expire, at nearly the same rate as that of Bengal. The normal annual increment is about £60,000. The benefit of this increment to the Local Government, however, has not been so great in the North-Western Provinces as in the case of Bengal, owing to the specially favorable settlements which Bengal obtained in 1877. During the last three years the Government of the North-Western Provinces and Oudh has surrendered to the Imperial Government a larger sum (£116,700) than Bengal (£113,200) out of a Revenue 50 per cent. smaller. As regards Expenditure, the Govern-

ment of the North-Western Provinces has pursued a policy wholly different from that of Bengal. Instead of spending freely, it has saved, with the result that it has now a balance of about £858,000 at its credit, which will be increased to £1,063,000 by the repayment of the contribution of £150,000 made to the Imperial Government during the war, and the addition of £55,000 to which I will presently (para. 57) refer.

57. After full consideration of the condition of the Provincial finances we have come to the conclusion that a revision of £150,000 a year in favor of Imperial Funds might fairly be asked. On the other hand, the cost of improving the subordinate Civil Services in the North-Western Provinces will be about £8,300, thus reducing the revision in favor of Imperial funds to £140,000 in round numbers. In order, however, to give the Local Revenue time to grow, and to facilitate the execution of the policy, recently announced, of relieving Municipalities of Police charges, it has been decided to act on the same principle as has been adopted in Bengal, and to grant the Local Government a partial remission during the first year of the contract of the additional sum which will be due to the Imperial Government. A sum of £55,000 will be credited to the Local Government in the Accounts for the current year. This is tantamount to a remission of £11,000 a year for five years. The reduction in Provincial Revenues will, therefore, really be only £129,000 a year.

58. This, however, does not state the whole of the case. A careful examination of the economic condition of the people in the various Provinces of India leads to the conclusion that in the North-Western Provinces and Oudh there are but slight signs of any improvement in the mass of the people during the last decade. The number of people with incomes of not less than Rs. 500 a year derived from trade and assessed to the License Tax in 1880-81 was 1,550 less than the number assessed to the Income Tax in 1870-71 and 1871-72. This would seem to indicate a diminution of the trade-wealth of these Provinces. On the whole, it may be said that nowhere in India is a reduction of taxation more required than in the North-Western Provinces and Oudh. The Government of India is, therefore, of opinion that, so far from reducing, it will be desirable to increase, the Imperial assignment in order to effect some reduction of taxation.

59. The Lieutenant-Governor has been consulted, and he is of opinion that the best course to pursue will be to remit all taxation on account of patwaris and kanungoes in the North-Western Provinces and in Oudh. The amount of the cess levied on this account in the North-Western Provinces is £241,000. The amount of taxation remitted will be considerably in excess of that imposed under Act III of 1878 (£170,000).

60. In Oudh no cess is levied for the purpose of remunerating patwaris. The patwaris are the private servants of the landlords and payable by them. It has been estimated that they cost their employers, or should, if properly paid, cost, some £75,000 per annum. We propose that the Government should find this sum, and take the payment of the patwaris into its own hands, when, as a matter of course, they will become Government servants, as they are in the North-Western Provinces, and will be treated accordingly.

61. The kanungoes in Oudh are paid by Government and cost about £2,900 a year. But the present establishment of State-paid kanungoes is altogether insufficient for purposes of supervision. There are 96 kanungoes to supervise 9,605 patwaris, working in 24,785 villages, *i.e.*, an average of 258 villages and 100 patwaris to each kanungo. There are great diversities in the sizes of the various kanungoes' charges, the maximum number of villages in a charge being 652, the minimum 57; the maximum number of patwaris 222, the minimum 33. In the North-Western Provinces the average number of patwari circles in charge of a kanungo is about 40, and this is generally considered to be too large for efficiency. To be fairly manageable, the average charge should not, in the opinion of the best informed local authorities, be greater than about 30 patwari circles to one kanungo. The cost of providing such an establishment is estimated at £11,600 a year, *i.e.*, £8,700 a year in excess of the sum now defrayed by Government.

62. The cost involved by these measures to the Imperial Government is shown in the following table:—

	£
Remission of Patwari Cess in the North-Western Provinces ...	241,000
Payments of Patwaris in Oudh, now made by landlords ...	75,000
Cost of additional kanungoes in Oudh (in round numbers) ...	10,000
Total ...	326,000
Deduct increase of contribution from Provincial Funds to the Imperial Treasury ...	129,000
Net cost to Imperial Government ...	197,000

63. The adoption of this mode of giving a remission of taxation will, the Lieutenant-Governor thinks, "be more likely than any other to affect the "tenants at once, for most tenants pay a special contribution towards patwaris' "wages, either in cash or kind, and when it became known that the patwari "was paid by Government, this contribution would hardly be demanded." We intend to cause the fact of the remission to be made known by proclamation in the vernacular, of which not less than two copies will be sent to every village in the United Provinces. The Bill relating to kanungoes and patwaris, which will to-day be laid before the Council, contains provisions which will prevent any landlord from recovering from a tenant any cess or rate or portion thereof, payable in money or kind, on account of the remuneration of a patwari, which becomes due after the 30th of June next. I should also observe that the new position given to the patwaris in Oudh will materially aid the operations of the Agricultural Department in that province.

64. *General result.*—The general result of the whole of the new contracts is as follows:—

The Imperial Government might resume £170,000 a year. Of this sum, however, it gives back to the Provincial Governments £77,900 for improving the position of the subordinate Civil Services, for general purposes in the Central Provinces, &c., £20,000 to the Madras Government for Provincial Public Works, and £326,000 to the North-West Provinces and Oudh, of which £10,000 is for additional kanungoes in Oudh, and the remainder (£316,000) is in the form of a remission of taxation. In addition to this the Imperial Government remits a lump sum of £360,000, equivalent to £72,000 a year for five years, on account of the first year of the new settlements by means of a transfer to the Provincial Accounts of Bengal (£285,000), Burma (£20,000), and the North-West Provinces (£55,000), to be effected before the close of the current year (1881-82). The total grants and remissions amount to £196,000 a year. The net result, therefore, is a loss to the Imperial Government of £26,000 for five years.

(b) *Development of Local Self-Government.*

Development of
Local Self-
Government.

65. Turning to the question of the development of Local Self-Government, it is to be observed that a great step in advance was made when, in 1870, India was no longer considered as a single unit for the purposes of Financial Administration. The Provincial units, however, are still very large. The Government is, therefore, of opinion that the time has come when a further step may be taken in the direction originally indicated by Lord Mayo in 1870. Boards and Committees for the administration of certain local funds already exist in most parts of India. We now wish to widen the sphere of action hitherto assigned to these bodies. The Provincial Governments have, therefore, been invited to hand over to them such items of Revenue and Expenditure as may appear most suited to give them a real interest in the administration of the resources at their command, and, on the other hand, to take over as a Provincial charge some items of Expenditure, such as Police, over which local bodies cannot exercise any real control. I will not, however, at present discuss this question at length. The Local Governments have been consulted upon the subject, and until their answers are received it will be impossible to decide upon the particular measures which it may be eventually deemed desirable to adopt. I will only say, that

whilst we recognise that the development of local self-government must be gradual, and not of a nature to outstrip the wants of the country and the standard of political education at which the people have arrived, at the same time we are desirous of making a real step in advance in the proposed direction.

66. I may mention, however, that one important step in advance has already been taken by the Lieutenant-Governor of Bengal, who has throughout most cordially co-operated with the Government of India in carrying out the policy now under discussion. It was indicated in the Government of India Resolution of September 30th, 1881, that it would be desirable to relieve Municipalities of Police charges and transfer to them other items of charge, such as Primary Education and Minor Public Works, the cost of which, within the limits of the Municipalities, has up to the present time been borne by Provincial Revenues. The intention was, wherever such a course was possible, merely to effect a transfer, and not either to increase or diminish Provincial or Municipal charges in the aggregate. It has been found difficult, however, more especially in the case of the smaller Municipalities, to carry this policy into effect without either increasing municipal taxation or providing extra grants from Provincial Revenues. It appears that out of a total sum of £110,000 expended by the different Municipalities, &c, in Bengal (exclusive of Calcutta, the Suburbs, and Howrah) in 1880-81, about £14,000 was spent on Police. The Government of Bengal has, therefore, decided that the charges now borne by Government in Municipalities on account of Dispensaries and Hospitals, amounting to something less than £10,000 a year, shall be transferred to those bodies, and that at the same time the Provincial Government should take upon itself the cost of the Police. The practical result of these orders will be to set free a sum of about £35,000 a year, which the Municipalities will be able to spend on conservancy, lighting, drainage, water-supply, and similar public wants. The Lieutenant-Governor has also increased the grant for Primary Education in the ensuing year by £10,000, and has announced that he will be ready to make liberal grants-in-aid to the funds of District Road Committees for the execution of well-considered projects.

67. In other parts of India, notably in the North-West Provinces, Assam, and the Central Provinces, the transfer of Police charges from the Municipalities to the Provincial Governments is either in active progress, or will very shortly be taken in hand, and generally it may be said that the policy of the Government of India has been cordially accepted by the Local Governments. *And in other parts of India.*

VI.—Regular Estimates for 1881-82.

68. I now proceed to compare the Regular Estimates with the Budget Estimates for the current year. *Regular Estimates, 1881-82.*

69. The Budget Estimates were as follows:—

	£	<i>Comparison of Budget and Regular Estimates, 1881-82.</i>
Revenue	70,160,000	
Expenditure	69,805,000	
Surplus	£355,000	

The Regular Estimates are as follows:—

	£
Revenue	72,913,000
Expenditure	71,334,000
Surplus	£1,579,000

The Revenue is, therefore, now estimated at £2,753,000 and the Expenditure at £2,031,000 in excess of the Budget Estimate. The net result is better than the Budget Estimates by £722,000. *Amount of Surplus.*

70. These figures, however, would not, without some explanatory remarks, give a true indication of the financial result of the year, or of the actual financial position. It has occasionally been the practice in making a Finan- *Explanations in respect to Surplus.*

¹ These figures are not the same as those given in para. 72 of the Financial Statement for 1881-82. Owing to the alteration made in the form of showing the Provincial adjustments (see ante, para. 2), a sum of £821,000 has to be deducted from both sides of the Account. The net result is the same, viz., a surplus of £855,000.

cial Statement, after stating what is the amount of surplus or deficit as shown upon the Accounts or Estimates, to make a calculation purporting to show what is the "real" surplus or deficit,—that is to say, what is the net result after eliminating any Revenue or Expenditure of an abnormal character. Very elaborate calculations of this sort are not of much use. It always happens that in the course of the year some abnormal circumstances arise, which to a greater or less extent influence both the original Estimates and the final net result. Further, if we look at a series of years, the actual surpluses or deficits shown in the Accounts really represent the net financial result of those years. At the same time, it is quite true that, unless allowance be made for any circumstances of very special importance and of a purely extraordinary character, an incorrect idea would be formed of the net result in the particular year of their occurrence. This is particularly true as regards the finance of the year 1881-82. In the first place we have paid back £670,000 to the Local Governments (para. 42), being the amount contributed by those Governments to Imperial Funds during the Afghan War. In the second place, as I have already explained (para. 64), a sum of £360,000 has been credited to the Local Governments in the Accounts of the year in connection with the renewal of the quinquennial contracts. Both of these items have been paid out of surplus, that is to say, neither of these transactions would have been carried out had we not been assured of the possibility of effecting the payments in question without incurring a deficit. If we add together these two items, we arrive at a total of £1,030,000. On the other hand, the amount of English War contribution credited to the Accounts of the year is £2,305,000. This was greater than the amount expended on the war, including Frontier Railways. I shall presently (para. 85) show that, owing to the difficulty of making an accurate separation between Ordinary Military Expenditure and War Expenditure, it is impossible to state precisely the amount by which this sum of £2,305,000 exceeds the real amount of War Expenditure incurred during the year, but I shall not be far from the mark if I state the excess at about £250,000. Deducting £250,000 from £1,030,000, there remains £780,000. If, therefore, the Provincial Governments had not been paid £1,030,000, and if, on the other hand, the receipts had not been swelled by an extraordinary credit of about £250,000, the surplus would have been £2,357,000. Some further corrections of this nature might be made. I have, however, said enough to show that £1,577,000 falls far short of the sum by which the normal Revenue of the year is estimated to exceed the normal Expenditure.

Surplus due to
Financial Admini-
stration of pre-
ceding Govern-
ments.

71. The Budget Estimates for the current year were framed on the unquestionably sound principle that, so long as the embarrassment caused by the partial occupation of a foreign territory continued, all large measures of fiscal reform must be postponed. It is now, indeed, two years since any important alterations in the fiscal system have been made, during which time the personnel of the Indian Administration, both in England and in India, has undergone very considerable changes. It follows, therefore, that so far as the flourishing condition of the finances, which the figures I have given above indicate, results from financial administration, the credit is due not to the present Government but to its predecessors.

Explanation of
details.

72. I proceed to give some explanations in respect to a few of the more important differences between the Regular and Budget Estimates.

IV and 6. Excise.

73. The net Revenue from *Excise* was originally estimated at £2,932,000.¹ It is now estimated at £3,312,000, being £380,000 in excess of the Budget Estimate. The general principles which guide the Government in respect to the Revenue from Excise are so well known that I need not discuss them at any length. Both from the financial and moral point of view, it is desirable to obtain a maximum of Revenue with a minimum amount of consumption. If the price of liquor is unduly increased, illicit trade at once springs up. If it be unduly diminished, drinking is encouraged. These principles are generally recognised as quite sound. The difficulty in dealing with the subject consists

¹ A Statement (X) has been added to those heretofore published, in which the net figures for 1880-81, 1881-82, and 1882-83 are given. It is thought that this statement may be useful for reference. Under the head of "Budget 1882-83" two columns are given, viz., "preliminary" and "final." The "preliminary" column give the figures as they would stand if no fiscal changes were made. The "final" column give the figures as they stand after allowing for the loss occasioned by the remissions of taxation which, as I shall presently explain, it is proposed to make.

in their proper application. So far as any increase in the Revenue represents the substitution of licit for illicit consumption, it is an unmixed good. So far as it represents facilities for drinking being afforded beyond the ordinary requirements of the population, it is an evil.

74. There has been an increase of Revenue in every Province of India, but the principal increase has taken place in Bengal. The net Revenue in that Province, which was originally estimated at £803,000, is now estimated at £953,000, an increase of £150,000. There is reason to suppose that in some districts of Bengal an unduly rapid extension of shops under the out-still system has taken place, but the Lieutenant Governor has drawn the attention of local officers to the subject, and in the future it is to be hoped that the number of licenses given will be so regulated as to follow, and not to precede, the demand for liquor. *Increase in Bengal.*

75. The net cost to the State of the Post Office is now estimated at £43,000 in excess of the original Estimate. The operations of the Post Office afford a good indication of the progress of the country. During the year 1880-81 about 159,000,000 letters, newspapers, parcels, &c., passed through the Post Office, as compared with about 143,000,000 in 1879-80. The system of Post-cards, which was introduced into India on July 1st, 1879 has been much appreciated by the public. In the nine months from July 1st, 1879, to March 31st, 1880, 7,472,000 of these cards were used. In 1880-81 the number rose to 11,865,000. The number of Money Orders issued in the first nine months of the current year was 1,601,412, representing a value of about £1,295,000, as compared with 1,152,716, representing a value of about £3,344,000, during the corresponding period of 1880-81. During the year 1880-81 insured property to the value of about £7,876,000 was sent through the Post Office. The rate of insurance charged is $\frac{1}{2}$ per cent. of the value. The amount of property lost, whether from accident, fraud, or highway robbery, was only £1,040. This result testifies to the general efficiency of the Post Office administration, and to the honesty of the large body of postal employees, the great majority of whom are Natives of India.

76. Various reforms have been introduced into the Post Office administration during the current year. On August 1st, 1881, the fee for Registration was reduced from 4 to 2 annas. It is too soon yet to say what will be the ultimate financial result of this reduction, but it is certain that, since the reduction of the fee, the number of registered letters has largely increased. During the month of December 1881, which is the latest month for which returns have been received, there was an increase in Head Offices alone of about 17 per cent., as compared with April 1881. *Reduction in Registration Fee.*

77. In October 1881 the postage on newspapers not exceeding 3 tolas (1 $\frac{1}{4}$ ozs.) in weight, was reduced from 6 to 3 pie. It is too early yet to say whether this measure will have any effect upon the circulation of the Vernacular papers, which mainly benefit by the change. *And in postage on Newspapers.*

78. I mentioned, on the occasion of my last Financial Statement (para. 95), that arrangements were being made to utilise the organisation of the Post Office with a view to giving increased facilities to depositors in the Savings Banks. The new scheme will come into operation on April 1st, 1882. We are unable at present to introduce it into the Bombay Presidency, owing to legal difficulties in connection with the vested rights of the Bank of Bombay. It will, therefore, for the present, only be introduced in the Bengal and Madras Presidencies. There are, at present, in those Presidencies, 179 Railway and Treasury Savings Banks. None of these will be closed, but from April 1st, 1882, 4,035 Post Office Savings Banks will be opened. The advantages of thus facilitating the investment of small sums by the rural population are obvious. Even with the limited number of Savings Banks now open, the accumulation of capital steadily increases. There were 63,293 Native and 44,485 European and Eurasian depositors in 1880-81, as compared with 52,147 Native and 39,141 European and Eurasian depositors in 1879-80. The value of the deposits was £3,299,000 in 1880-81, as compared with £2,315,000 in 1879-80. There was a remarkable and very satisfactory increase (£984,000) in the amount of Native investments. It is to be hoped that, with the additional facilities now offered, the amounts invested will increase more rapidly than heretofore. *Post Office Savings Banks.*

79. The efficiency of the Post Office administration depends to a great extent on a very careful attention to small details. The requirements of the public have to be watched, and, so far as is possible, anticipated. From this point of view the criticisms and suggestions on postal administration which, from time to time, appear in the newspapers, both English and Vernacular, are of great assistance. It is desirable that the Post Office authorities should be kept fully informed of the most recent improvements introduced into the postal administration of other countries. With this object in view, a high official of the Post Office will shortly visit the principal countries of Europe, as well as the United States.

80. The Government has at present under its consideration a scheme for granting Life Assurances and Annuities, both immediate and deferred, to the employes of the Post Office. This scheme will shortly be introduced. The experience we shall thus gain will enable us to judge whether it will be desirable to extend the scheme to others besides postal employes.

81. The increased work which has been thrown upon the Post Office renders it desirable to improve the position of Post Masters, more especially in Bengal, the North-Western Provinces and Oudh, where their pay has, relatively speaking, been low. The salaries of the Post Masters have, therefore, been increased in those Provinces, at a cost to the State of about £5,000 a year.

82. The net cost to the State of the *Telegraph* Department is now estimated at £91,000 as compared with the Budget Estimate of £81,000. In the course of the year important additions were made to the pay of the Telegraph establishment. About 1,000 miles of line have been opened and about 4,000 miles of new wire erected; 128 additional offices were opened. It is too early yet to judge of the effect on the Revenue of the alterations in the Tariff which were introduced on January 1st, 1882, or of the extent to which the system of sending "urgent" and "deferred" messages is appreciated by the public. The following figures, however, give some indication of the results attained so far. From the Calcutta Office 7 per cent. of the messages despatched during the month of January were "urgent," 71 per cent. were "ordinary," and about 21.5 per cent. were "deferred." Comparing the number of messages sent from four of the principal offices in January 1882 with the number sent in January 1881, there has been an increase in Calcutta of 9 per cent., in Madras of 11 per cent., in Rangoon of 15 per cent.; in Bombay there has been a falling off of 5 per cent. During the year Postal Telephone Offices have been established as adjuncts to the Telegraph Department. Licenses have also been granted to Telephone Exchange Companies in Calcutta, Bombay, Madras, and Kurrachee.

83. The net Expenditure on *Other Public Works* is now estimated at £215,000 in excess of the Budget Estimate. The main increase of Imperial Expenditure has taken place in Bengal, where it is expected that the Budget Estimate will be exceeded by a sum of about £83,000. This is due to additional grants having been made during the year for the new Treasury Building, the new Central Press Building, and the new Military Account Offices, the Imperial Museum at Calcutta, and for several other works. The expenditure on Military Works during the year 1880-81 fell short of the Regular Estimate by £68,000. This amount was, therefore, added to the grant for 1881-82. For some years past it has been the practice to give a fixed grant of £1,000,000 a year for Military Works, on the understanding that any unexpended balance is carried forward for expenditure in the following year.

84. The Regular Estimate provides for a total net *Military Expenditure* of £17,491,000, viz., £16,150,000 Ordinary and £1,344,000 War, as against a Budget Estimate of £17,855,000, viz., £15,615,000 Ordinary and £2,210,000 War.¹ The present Estimate of net Military Expenditure is, therefore, £361,000 less than the Budget Estimate. The difference would have been greater but that a sum of £560,000 has been deducted from *Frontier Railways* and added to *Military Operations in Afghanistan*. This sum represents the amount of Capital expended on the unfinished portion of the Kandahar Railway. It was thought desirable to make this transfer in order that the Capital Account of the existing Railway, which runs from Ruk on the Indus to Sibi and Pir Chowki,

¹ This calculation excludes the English contribution from the Revenue side of the Account.

Life Assurance.

Pay Postmas-

*XIV and 16
graph.*

*XXVII & 34.
Other Public
Works.*

*XXVIII and 35.
Army.*

should not be burdened with expenditure which does not really belong to it, and which is properly debitable to the War. If we deduct this amount of £560,000, the net War Expenditure, exclusive of Frontier Railways, would be reduced from £1,314,000 to £784,000, and the Regular Estimate of total net Military Expenditure would be £16,934,000, being £921,000 less than the Budget Estimate.

85. I have already explained (para. 10) that a redistribution of the English contribution between the years 1880-81 and 1881-82 was made in September 1881. According to the original distribution, £2,000,000 was to be credited to the Account of 1880-81 and £3,000,000 to the Account of 1881-82. This latter sum of £3,000,000 was estimated to cover the cost of Military Operations in Afghanistan and of Frontier Railways in the proportion of £2,210,000 for the former, and £790,000 for the latter, class of expenditure. The distribution adopted in September, which was the best that could be made according to the information then available, was £2,695,000 for 1880-81 and £2,305,000 for 1881-82. According to the Regular Estimate, the net charge for *Military Operations in Afghanistan* during the year 1881-82 will be £1,344,000, and the charge for *Frontier Railways* £209,000. The total net cost of Military Operations proper and of Frontier Railways, taken together, during the year, has, therefore, been £1,553,000, being £752,000 less than the amount of the English contribution which will be credited to the year's account. These figures, however, do not accurately represent the state of the case. It will be observed that, whilst the net War Expenditure recorded under *Army* is estimated at £866,000 less, the net Ordinary Military Expenditure is estimated at £505,000 more, than the Budget Estimate. It has, in fact, been found impossible to distinguish accurately between Ordinary and War Expenditure. Orders were issued in the course of last autumn that from January 1st, 1882, the charges on account of the troops beyond the frontier should be treated as Ordinary, only special charges, such as compensation for loss of camels, &c., being classified as War Expenditure. It cannot be doubted that a great deal of the expenditure debited to the Ordinary account really belongs to the War. The Military Estimate must, in fact, be treated as a whole. The division into Ordinary and War Expenditure does not pretend to any great accuracy.

86. It will be convenient in this place that I should state the total cost of the War. Exclusive of the cost of Frontier Railways, the direct cost of the War may be taken at £17,551,000 (true sterling £14,679,000). The Frontier Railways are estimated to cost £4,060,000 (true sterling £3,614,000). The total cost of the War,

YEAR.	Military operations.	Frontier Railways.	TOTAL.
	£	£	£
1878-79 (Accounts) . . .	676,000	...	676,000
1879-80 (Accounts) . . .	4,766,000	1,334,000	6,100,000
1880-81 (Accounts) . . .	10,765,000	2,294,000	13,059,000
1881-82 (Regular Estimate) . .	1,344,000	209,000	1,553,000
1882-83 (Budget Estimate) . .	..	223,000	223,000
TOTAL . . .	17,551,000	4,060,000	21,611,000

if we include Frontier Railways, is, therefore, £21,611,000 (true sterling £18,293,000). Of this amount £5,000,000 (true sterling) has been paid by the Government of England, and the remainder by the Government of India.

87. This is the best calculation that can be made of the cost of the War, but it does not profess to be very accurate. On the one hand, certain deductions have to be made by reason of the increased receipts from Railways and Telegraphs, consequent on the War. It is impossible to say to what an extent any deduction should be made on these heads, but the amount, if it could be accurately calculated, would, no doubt, be considerable. On the other hand, some large additions have to be made, both by reason of the fact, to which I have alluded above (para. 85), that a good deal of War Expenditure has been debited to the Ordinary Account, and also because the cost of the Punjab Northern State Railway is not included in this calculation. The construction of that Railway was hurried on by reason of the War, and, in consequence, it no doubt cost considerably more than it otherwise would have done. Further, some small charges have yet to be incurred on account of the War. Provision has been made in the Budget of 1882-83 for a sum of £30,000 on account of these charges.

XXIX and 36.
Exchange.

88. The Budget Estimate provided for a net *Loss by Exchange* of £3,063,000. It was anticipated that the Secretary of State would draw £17,200,000 sterling. The value of the rupee was taken at 1s. 8d. There has been a considerable demand for Council Bills lately. The opportunity has, therefore, been taken to remit home money to an extent somewhat in excess of the year's requirements. It is now estimated that the Secretary of State will draw on the Government of India to the extent of £17,504,000 sterling during the current year, at an average rate of 1s. 7.88d. The net *Loss by Exchange* is now estimated at £3,294,000, being £231,000 in excess of the Budget Estimate.

51. Famine Relief and Insurance.

89. It will be observed that the grant of £1,500,000 for *Famine Relief and Insurance* is divided into three sub-heads, viz., *Relief*, *Protective Works*, and *Reduction of debt*. There has been an expenditure of £23,000 on *Famine Relief* during the current year in Madras, caused by a remission of some of the advances given to cultivators and others in 1876.

Protective Works.

90. According to the Regular Estimate the expenditure during the current year on *Protective Works* will be as follows:—

	£	£
<i>North-West Provinces—</i>		
Betwa Canal		25,000
<i>Bombay—</i>		
Nira and Gokak Canals and Maswad Tank ...	82,000	
Southern Mahratta Railway	315,000	
		397,000
<i>Punjab—</i>		
Swat Canal	40,000	
Rewari—Ferozepore Railway	207,700	
		247,700
<i>Madras—</i>		
Surveys		6,000
Expenditure in England		51,310
TOTAL		727,000

Reduction of Debt.

91. The annual grant (£750,000) to be applied to the *Reduction of Debt*, together with a portion (£90,000) of the same grant for 1882-83, will be devoted to paying off the 5 per cent. loan of 1867 (£603,000) and the 4 per cent. loans of 1871 (£203,100), of 1824-25 (£31,600), and of 1828-29 (£5,800). Various suggestions have, from time to time, been made as to the best method of spending this money for the future. I need not, at present, discuss those suggestions. They will, without doubt, be carefully considered by the Commissioners appointed under the Government Resolution published in the *Gazette of India* of February 4th, 1882. It was, in fact, with a view to the full consideration by an independent body of the various alternatives which are possible that the Commissioners were nominated; and the Resolution appointing them was drafted with a view to embracing all the different suggestions which have, from time to time, been made. We should have been glad if we could have given somewhat greater powers to the Commissioners, but it was held that we were precluded by Act of Parliament from doing so. The Commission will be a consultative body. The final responsibility for action will rest with the Government. I trust, however, that the difference will be more nominal than real. The Government will, without doubt, always be disposed to follow the advice of the Commissioners. I wish on behalf of the Government to thank the gentlemen (Mr. J. Keswick and the Honourable Durga Charan Láhá) who have consented to act as Commissioners. It is, I venture to think, desirable to take any opportunity of this sort which may arise to associate the leading members of the mercantile community with the work of Government in India. A good deal of misapprehension as to the views and intentions of Government not unfrequently arises from the want of free communication between the official and unofficial classes.

Famine Insurance policy.

92. I take the present opportunity of drawing renewed attention to the leading feature of the Famine Insurance policy. Whether the method which has now been adopted for disposing of the annual grant of £1,500,000 is the best of

which the circumstances admit, may be a matter of opinion. There can, however, be no doubt whatever that by the annual expenditure of £750,000 on works which will to some extent prevent famine, and which will also, it may reasonably be hoped, render the relief of famine, when it occurs, less costly,—and by the expenditure of a further sum of £750,000 on reducing debt in some form or another,—we are, in the strictest sense of the word, insured against famine to the extent of £1,500,000 a year. That sum the Famine Commissioners, after a very full consideration of the whole subject, named as the “amount not likely to be exceeded as the average charge for famine relief over a series of years.” Having made provision for this sum of money to be expended annually, the Government considers that all that is necessary has been done with a view to placing India in a sound financial position to meet future famines. I mention this again, although it has frequently been explained before, because, should unfortunately a famine occur with the result that any anticipated surplus of the year is turned into a deficit, it may not improbably be urged by those who take a very gloomy view of the financial position of India as a proof that their fears have been verified. I venture to think that no such inference would be justified. We do not profess to finance for a surplus in a year of famine. When a serious famine occurs, it is inevitable that the Expenditure of the year should be greater than the Revenue. We anticipate that, under the circumstances assumed, this will be the case, and we consider that all the requirements of sound finance have been met if in ordinary years a sum of £1,500,000 has been expended, partly as an insurance against the loss which must of necessity accrue when famine occurs, and partly on works which will either tend to prevent the occurrence of famine, or will, at all events, diminish the cost of relieving it when it occurs.

VII.—Expenditure on Railways.

93. The “Ordinary” Expenditure on Railways for the year 1881-82 was originally estimated at £417,000. It is now estimated at £281,000. The difference is mainly due to the transfer of the estimated outlay during the current year on the Jhelum—Rawalpindi Section and Salt Branch Extension of the Punjab Northern State Railway from 32. *Railways* to 37. *Productive Public Works*.

Railways.

XXI and 32.
Railways.

94. The item of £39,000 under the sub-head of *Subsidized Railways* is for the purchase of the land necessary to the construction of the Bengal Central Railway, and for guaranteed interest payable to the Company. The item of £2,000 on the Revenue side of the Account represents the interest realised on the capital paid by the Company to the Secretary of State.

Subsidized Railways.

95. The decrease of £581,000 under the sub-head of *Frontier Railways* is mainly due to the transfer of £560,000 to *Military Operations in Afghanistan*, which I have already explained (para. 84).

Frontier Railways

96. Turning to the Revenue and Expenditure Account of those Railways which are classed as Productive Public Works, it will be observed, on comparing the figures under *XXV* and 32. *Railways*, that the Budget Estimate of net receipts appears to have been exceeded by £1,064,000. Of this apparent improvement, £150,000 is shown as decrease of expenditure on account of the East Indian Railway. The decrease under this head is almost entirely due to the interest on the East Indian Railway Debentures having, in the Budget Estimates, been included under 32. *Railways*, whereas, in the Regular Estimate, it is charged to 1. *Interest on Debt*. The result is that, whilst the charge under the former head of account is decreased, that under the latter is increased to the extent of about £150,000. Hence, the net receipts from *Railways* are really £914,000 in excess of the Budget Estimate. Almost the whole of this increase is on account of the Guaranteed and East Indian Railways. On the Guaranteed lines the main increases have taken place in the Great Indian Peninsula and Eastern Bengal Railways. The net receipts from State Railways are now estimated at £18,000 more than the Budget Estimate. The net receipts of the Rajputana—Malwa Railway have improved by £110,000; but this improvement has been, to a great extent, counterbalanced by the falling off on the Punjab Northern Railway, the net receipts from which are now taken at

Railways classed as Productive Public Works. Revenue and Expenditure Account.

£88,000 less than was originally estimated. So long as the war traffic was going on, it was difficult to frame any correct estimate of the normal net receipts on this line.

Construction of
Railways by
private enter-
prise.

97. In my last Financial Statement (para. 30) I made the following remarks: "I am not over-sanguine as to the possibility of developing the resources of India rapidly through the agency of private enterprise; but the end to be attained is so important that the policy merits a further trial." My main object in making these remarks was to draw public attention to the subject, and to remove the impression which heretofore, whether rightly or wrongly, had prevailed, that the Government of India was disposed to discourage the construction of Railways by any other agency than that of the State. This object has been attained. The question has, indeed, now entered a new phase. Numerous offers have been received by the Government to construct Railways on terms more or less advantageous to the State. Many of these merit, and will receive, careful attention. In respect to others, all I need say is that the necessity for the warning which I gave last year to the effect that it was "important only to give concessions to such persons as can afford good security that they have at their command a sufficient amount of capital to carry out the undertaking to a successful issue," has been justified by subsequent events.

Central Bengal
Railway.

98. I mentioned last year that a Company was about to be formed, under the auspices of Messrs. Rothschild, to construct a Railway from Calcutta to Jessore and Khulna. The original basis of negotiation was that no Government aid was to be given except the grant, free of charge, of the land necessary to the construction of the line. Ultimately it was decided to give a guarantee of 4 per cent. during the period of construction, which was limited to five years. The transaction was a great advance on anything which had heretofore been accomplished in the way of constructing Railways by unaided private enterprise in India.

Railway policy is
under discussion

99. In respect to some Railways in India it may be said that they present a sufficiently reasonable prospect of success to justify the hope that the capital necessary to their construction can be raised through the agency of private enterprise on the exclusive security of the success of the undertaking. In respect to others, whose immediate prospects of proving remunerative are less hopeful, it was inevitable that the question of the degree of aid which, in the early stages of the undertaking, may legitimately be afforded by the State, should arise. This important question now forms the subject of correspondence between the Secretary of State and the Government of India. Under these circumstances I will not at present discuss it, but will confine myself to stating in detail the actual position of affairs, both as regards the progress of Railway construction generally, and of the main projects which have recently occupied the attention of Government and of the public.

General principle
of private enter-
prise approved
by the Secretary of
State.

100. I wish, however, to say that so far as the broad issue of whether permission should under any circumstances be given to private Companies to construct Railways in India is concerned, Her Majesty's Government has entirely approved of the views which I propounded on the occasion of my last Financial Statement. In a despatch reviewing that Statement the Secretary of State observed: "I have to express my cordial approval of the views enunciated by Major Baring in his Financial Statement, regarding the encouragement of private enterprise in India, any measures in which direction will be welcomed by Her Majesty's Government." I repeat that I am not over-sanguine of the results which may be produced by this change of system. The success or failure of the policy obviously depends to a great extent on circumstances over which the Government can exercise no control. All I claim for the policy is that it should have a fair and impartial trial.

Lines open and
under construction.

101. At the commencement of the year 1881-82, there were 9,619 miles of Railway open to traffic, and 646 miles under construction. During 1881-82, 318 miles of Railway have been opened to traffic and the commencement of 1,154 additional miles has been sanctioned. We have, therefore, now 9,937 miles open to traffic and 1,482 miles which are either under construction or whose construction will be commenced in 1882-83, making a total of 11,419 miles. Of those lines which are under construction it is expected that 491 miles will be opened during the year 1882-83.

102. In the course of the year arrangements were made with the Oudh and Rohilkhund Railway Company to extend their operations in a northerly direction from Moradabad to Saharunpore with a branch from Roorkee to Hurdwar, a total distance of 134 miles, at a cost of about £1,500,000. It is expected that this extension, together with the bridge over the Ganges at Benares, will be finished in 1883-84. There will then be through communication, without any break of gauge, from the East Indian Railway at Mogulserai through Oudh to Saharunpore.

Oudh and Rohilkhund extension.

103. A survey has been made of the line from Sonapur to Gorakhpur and Bahraich. The total length of this line, with its branches, is 432 miles. It was originally estimated to cost, on the metre gauge, £2,126,000, or about £4,900 a mile. The Consulting Engineer of the Government of India considers this estimate too low. The estimates are now being further examined. In the meanwhile the papers on the subject have been published, and we have addressed the Secretary of State, recommending that enquiries should be made with a view to ascertaining whether a Company, unaided by Government in any way except by a free grant of land, could be formed to undertake the construction of the line.

Sonapur—Gorakhpur and Bahraich Railway.

104. One of the most important lines in India, whether from the point of view of protection against famine or in respect to the development of a tract of country whose progress is now retarded owing to deficient means of communication, is that which is known by the name of the Southern Mahratta System. This system includes (1) the line from Bellary to the Portuguese Frontier, which the Government of India is under a treaty obligation to construct; (2) branches to Belgaum on the one hand and to Bunkapur on the other; (3) a direct connection between Sholapur and Gadag. The total length of the line is 444 miles. £315,000 will be spent on the Sholapur—Gadag and Bellary—Hubli Sections in 1881-82 out of the grant of £750,000 for Protective Works. A further allotment of £370,000 out of the same grant has been made for 1882-83. Work is about to commence on the line between New Hubli and the Portuguese Frontier. A sum of £150,000 from Ordinary funds has been granted for this purpose in 1882-83. This is the most we can do at present with the funds at our disposal. But, in view of the very great importance of completing this Railway system without delay, we have urged upon the Secretary of State the desirability of endeavouring to arrange for its construction by a Company. It is especially in respect to lines of this nature that the question of the degree of aid which may be afforded by the State to private enterprise arises.

Southern Mahratta System.

105. The question of Railway communication with Assam has recently occupied the attention of the Government. At a recent meeting of the Indian Tea Association the Chairman (Mr. J. Keswick) said—"What we want for Assam is good communications; for good communications will do more to settle the labour question than anything else. The soil we know to be of the richest description, and with sufficient labour there is no limit to its productiveness."

Railway communication with Assam.

106. The projected line from Naraingunge to Dacca and Mymensingh is 85 miles long. It is estimated to cost £600,000, or about £7,000 a mile, on the metre gauge. The line is now being located. It would be desirable that this line should be constructed, if only to open out the country about Mymensingh, but its main importance lies in the possibility of a further extension to Gauhati, a distance of about 100 miles from Mymensingh. This extension is being now reconnoitred. No official report on the results of the reconnaissance has as yet been received, but I am informed that the Engineer-in-Chief is of opinion that the route is impracticable, save at very inordinate expense.

Dacca—Mymensingh line.

107. An alternative project would be to make a line through the Cachar hills to Sibsagar. This alternative is supported by many high authorities. No reconnaissance has as yet been made of this route. In the meanwhile the Bengal Government has under consideration a project to make a Railway from Daudkandhy to Comilla and Chittagong, a distance of 125 miles. It is estimated that, on the metre gauge, the construction of this line would cost £812,500, or £6,500 a mile.

Line from Daudkandhy to Comilla and Chittagong.

River communication up the Brahmaputra.

Dibrugarh—Sadiya Line.

Direct connection between the Central Provinces and the East Indian Railway system.

Raipore—Vizagapatam Line.

Bareilly—Ranibagh Line.

Baroon—Daltongunge Line.

Nilgiri Railway.

Baidyanath—Deoghur Tramway.

Rohtuk—Delhi Tramway.

Total cost of Railways in India.

108. In the meanwhile, as it is obvious that some long while must yet elapse before Railway communication with Assam can be established, arrangements are being made with a Company to start a daily service of fast steamers up the Brahmaputra from Dhubri. These arrangements are now almost complete.

109. In the course of the year a concession was made to a Company to construct 76 miles of Railway in the most easterly portion of Assam, namely, from Dibrugarh to Sadiya (52 miles), with a branch to Makum (24 miles). This proposal has been for a long while under consideration, and the negotiations were already far advanced, when, on the occasion of my last Financial Statement, I alluded to the desire of Government to enlist private enterprise in aid of Railway construction in India. The concessions granted to the Company were very liberal, and are not to be taken as an indication of what the Government would be prepared to concede in other cases.

110. Reconnaissance surveys are being made with a view to considering the possibility of making a direct connection between the Central Provinces and the East Indian Railway system. Various overtures have been received from capitalists of respectability, including some Natives of India, which may perhaps eventually lead to the construction of this line. Until, however, the reports of the Engineer Officers who are now employed in reconnoitering are received, I am unable to say any thing definite, either as to the route the line will eventually take, or as to the likelihood of any negotiations with a Company being conducted to a successful issue.

111. Simultaneously, a reconnaissance is being made of the country between Raipore and Vizagapatam, with a view to judging of the possibility of connecting these points by Railway.

112. Negotiations are in progress with a view to the construction, through private agency, of a Railway from Bareilly to Ranibagh, a distance of 66 miles. The cost of this undertaking will be about £220,000.

113. A proposal has been received from a local Company to make a line from Baroon, on the river Sone, to Daltongunge. The length of this line is 56 miles, and the cost, on the metre gauge, is estimated at about £275,000, or £4,900 a mile. This project is now under the consideration of the Bengal Government. The information at present in the possession of Government is not of a nature to enable us to judge thoroughly of the advisability, or the reverse, of making the concessions which have been demanded.

114. Negotiations are pending between the Madras Government and a Company with a view to the construction of a line from Metapaliyam to Coonoor, a distance of 12 miles. The cost of this line is estimated at £132,000.

115. A short line is to be constructed from the Baidyanath Station on the East Indian Railway, to Deogurh and Rohinee, a distance of 6 miles. A very satisfactory feature in respect to this small undertaking is that it is to be constructed without any aid from Government except the grant of the land, and that the capital required (£25,000) has been locally subscribed.

116. There is also some prospect that a local Company will be formed in the Punjab to make a tramway from Rohtuk to Delhi, a distance of 43 miles.

117. It may be interesting that I should here state the sum of money which, up to the present time, has been laid out on Railways in India, together with the financial results which have ensued from their construction.

118. The total capital outlay on Railways in India up to the end of 1882-83¹ will be £138,937,000, *viz.*, £68,292,000 on Guaranteed lines, £31,852,000 on State lines, and £38,793,000 on the East Indian Railway.

119. The net charge to the State on account of the Guaranteed lines has been decreasing since 1872-73, in which year it reached its maximum figure (£2,054,000). In 1881-82 it is estimated that the net charge will only be £115,000. In 1882-83 it is at present estimated that the net charge will be £261,000.

120. The net charge to the State on account of State lines reached its maximum figure (£725,000) in 1879-80. In 1882-83 it is estimated at £206,000.

121. From 1879-80, when the East Indian Railway was taken over by the State, up to the end of 1882-83, it is estimated that this line will have yielded a net profit to Government of £4,133,000.

¹ Up to the end of 1880-81, the figures are Actuals; for 1881-82, the figures of the Regular, and for 1882-83, those of the Budget Estimate, have been taken.

122. If the subject be considered as a whole, it may be said that the total cost of the Railways to India from their commencement to the end of 1882-83, that is to say, the total sum by which the net receipts have fallen short of the interest paid on the Capital outlay, is estimated at £25,569,000. The maximum net charge to the State in any one year amounted to £2,163,000. This figure was reached in 1872-73. In 1877-78 the Railways for the first time yielded a net profit (£132,000). This was due to the large amount of traffic during the famine. In the following year (1878-79), when the country was suffering from the effects of the famine, the net charge was heavy (£1,588,000). If we balance the abnormal receipts of the year 1877-78 against the abnormal losses in 1878-79, it may be said that since 1872-73, the net charge to the State has been steadily diminishing, until during the current year it is estimated that a net profit of £723,000 will be realised. This result may possibly be exceptional, and it would be unsafe to rely on a continuance of the high receipts which have recently been obtained. But according to the moderate Budget Estimate of 1882-83, the net gain to the State during the coming year will be £261,000.

The net charge the State has been diminishing since 1872-73.

123. It may also be interesting that I should state the financial position of each Railway considered separately. The following tables show (1) the capital outlay on each line to the end of 1881-82; (2) the estimated net receipts during the current year; (3) the percentage return on the capital outlay.

1. Guaranteed Railways.

	Estimated capital outlay to end of 1881-82.	Net Receipts. Regular Estimate, 1881-82.	Percentage.
	£	£	
Eastern Bengal	3,555,509	300,000	8.43
Madras	11,424,764	200,000	1.75
South Indian	4,547,039	120,000	2.64
Bombay, Baroda, and Central India	8,756,881	580,000	6.62
Great Indian Peninsula	25,749,956	1,800,000	6.99
Oudh and Rohilkhand	6,321,766	195,000	3.08
Sind, Punjab, and Delhi	11,957,111	295,000	2.47

2. State Railways.

	Estimated capital outlay to end of 1881-82.	Net Receipts. Regular Estimate, 1881-82.	Percentage.
	£	£	
East Indian Railway	38,307,683	3,110,000	8.12
Rajputana	5,617,039	320,000	5.70
Western Rajputana			
Neemuch	3,423,441	60,000	1.75
Holkar			
Scindia	869,206	9,500	1.09
Wardha Coal	593,592	7,500	1.26
Nagpur and Chattisgarh	828,567	10,000	1.21
Rangoon and Irrawaddy	1,289,305	64,000	4.96
Dhond and Manmad	997,628	14,000	1.40
Northern Bengal	2,101,600	94,000	4.47
Tirhoot	575,285	21,000	4.17
Patna and Gya	380,014	17,000	4.47
Nalhati	33,624	100	.29
Calcutta and South-Eastern	679,486	—4,000	—59
Cawnpore—Farakhabad	324,841	12,500	3.84
Muttra—Hattaras	109,287	3,500	3.20
Ghazipur—Dildarnagar	67,853	500	.74
Muttra—Achneyra	66,890	100	.15
Indus Valley	8,028,093	115,000	1.13
Punjab Northern (Lahore to Rawalpindi, including Salt Branch)	4,534,743	21,500	.47

Conclusions to be drawn from the figures.

124. These tables enable us to arrive at the following conclusions:—

(1) In respect to the Guaranteed lines, £38,062,000 of the capital which has been laid out up to the end of 1881-82 is paying more than 4%, and £34,251,000 is paying less than 4%.

(2) The East Indian Railway, on which £38,308,000 has been expended, is paying about 8%.

(3) In respect to the State lines, £9,963,000 of the capital laid out up to the end of 1881-82 is paying more, and £20,555,000 is paying less than 4%. It is to be borne in mind that this latter figure includes £12,563,000 for the Indus Valley and Punjab Northern Lines, which were avowedly constructed for strategical purposes, that many of the lines are scarcely finished, and that others have only very recently been opened to traffic.

VIII.—Supply of Stores to Government.

Supply of Stores to Government.

Objects of the policy of purchasing stores locally.

125. In the last Financial Statement (para. 105) I alluded to the desirability of substituting articles of local manufacture, when possible, for such articles as the Government has been in the habit of importing from Europe. The objects of this policy are twofold. In the first place, to diminish the Home charges. In the second place, to encourage by all legitimate means the establishment of new industries in India. In respect to this latter question the Famine Commissioners observe (Report, Part II, Chap. VI) that—

“At the root of much of the poverty of the people of India, and of the risks to which they are exposed in seasons of scarcity, lies the unfortunate circumstance that agriculture forms almost the sole occupation of the mass of the population, and that no remedy for present evils can be complete which does not include the introduction of a diversity of occupations, through which the surplus population may be drawn from agricultural pursuits and led to find the means of subsistence in manufactures or some such employments.”

* * * * *

“So far as the products of any industries established in India can be economically used by Government, they might properly be preferred to articles exported from Europe, and generally the local markets should be resorted to for all requisite supplies they can afford. We are aware that steps have been taken, within the last few years, to enforce this principle, but more can certainly be done, and greater attention may properly be paid to the subject.”

Limits to influence of Government.

126. It would be easy to exaggerate the extent to which any Government action can exercise an influence upon the important economic question to which the Famine Commissioners allude. This was pointed out by the Commissioners in their Report. At the same time Government can do something in the proposed direction, and what it can do, it ought to do and is desirous to do.

General orders on the subject have been overlooked.

127. General orders have on previous occasions been issued to the effect that, wherever feasible, stores of Indian origin or manufacture should be substituted for imported goods. But the tendency of general orders is to be overlooked. When, therefore, a general order was issued last June prescribing that for the future every effort should be made to supply the wants of Government by the purchase in the local market of articles of *bona fide* local manufacture, it was deemed necessary, in order to ensure attention to the order, to follow it up by a specific prohibition in every case, in which this could reasonably be done, of the importation of stores. The prohibition could not, of course, be made absolute. It was necessarily limited to cases where the articles required could be obtained in quantities sufficient for requirements at prices not higher than, and of a quality not appreciably inferior to, the prices and quality of the imported goods for which they were to be substituted. Also, where an Indian-made article different from the imported article, but equally serviceable, was obtainable, orders were given that the former was to be preferred. Since last June the Financial Department has been actively employed in watching the operation of the orders given by the Government, and seeing that they are rigorously adhered to. The Military and Public Works Departments, which are the two largest consumers of stores, gave their adhesion to the policy under discussion, and have co-operated in carrying it into execution. The Local Governments and Administrations have also lent valuable assistance by insisting on a careful observance of the orders by the

chiefs of the departments subordinate to them. I take this opportunity of expressing a hope that the various Departments concerned, as well as the Local Governments and Administrations, will continue to watch this subject carefully. Without their cordial co-operation and assistance it will be almost impossible to give effect to the policy of the Government. General orders, as I have already said, are of little avail. The question is essentially one of detail, and unless each indent on England be carefully examined in detail, with a view to the exclusion of such articles as can be obtained locally, no considerable advance in the desired direction will be made.

128. It was considered that the most efficient and speedy way of ensuring the practical execution of the orders was to call for statements of the stores received by Departments from England during the two previous years, and to specify distinctly the stores entered in the lists which were not in future to be obtained elsewhere than in India. This has been done with every list of stores which has been received, and a similar process has been gone through with every current indent for stores received in the Financial Department. The work has been very laborious, and much credit is due to Mr. O'Connor, the Assistant Secretary in the Financial Department, for the manner in which it has been executed. The result so far is, briefly, that in the Civil Departments, stores, which had hitherto been imported to the annual value of about £80,000, will in future be obtained in India of Indian manufacture. The largest values are represented by cotton and woollen goods, but the list includes a great variety of other articles; for instance, agricultural and other implements, building materials, such as cement and fire bricks, chemicals, drugs and medicines, earthenware, glass-ware, hardware, iron-ware in great detail, leather, liquors, oils, paints, soap, paper and stationery, printing materials, rope and twine, silk goods, scientific instruments, &c. This list indicates the great capacity of India as a manufacturing country. Capital and acquired skill are necessary for the full development of this capacity, and it is hoped that this will be forthcoming if the prospect is held out of a continuous demand on the part of the State for all the articles which it requires. The Government has, accordingly, offered contracts for terms of years to anybody able to supply articles not now made in the country of sufficiently good quality and at reasonable prices. In some cases such offers have elicited answers which are encouraging. In others no reply has been made to the offers of the Government.

Results attained up to present time.



Capacity of India as a manufacturing country.

129. In addition to the total of £80,000 mentioned above, the Military Department has already substituted Indian goods to the value of £166,700 for articles hitherto imported; among the chief items being beer and woollen goods (blankets). Arrangements have also been made to manufacture in India, through the agency of private enterprise, a portion of the boots required for the Army, and it is hoped that eventually India will be able to supply the whole demand. The change is still in active progress in the Military Department, and in the course of another year or two it is hoped that the total amount of stores purchased in India will be increased.

Military Department.

130. The Public Works Department has not as yet been able to do much in the same direction. The requirements of that Department mainly consist of girders, rails, and other articles made of wrought iron. Unfortunately India cannot yet manufacture wrought iron or steel, although it is hoped that before long a commencement will be made. Great facilities exist for the manufacture of these articles in more than one province, and only wait for efficient private enterprise to take them up.

Public Works Department.

131. A reduction of about £250,000 out of the whole value of the Government stores imported into India is not much, but it is a good beginning. With the development of the woollen industry which has been started under favorable conditions at Cawnpore and Lahore, paper-making, leather manufacture, and brewing, all of which are now thriving, there is good reason to hope that eventually a material impression will be made on the totals of the imports on account of the State.

Total reduction of European stores up to present time.

132. Sufficient time has not yet elapsed for the effect of the orders which were recently issued to be seen on a general review of the imports. Indents which had been sent to England in 1880 or before, are now being complied with; reserve stores must be exhausted, and time must be given to local manufacturers

Result as shown by comparison of total imports.

to complete their arrangements to make and deliver goods. I give, however, the following figures, in order to show the facts of the case as they now stand.

133. The total value of the stores imported on behalf of Government in 1879-80 was £1,421,000. In 1880-81 it was £2,808,000. The increase in 1880-81 over 1879-80 is to a great extent apparent and not real, owing to the classification of stores for the ~~East~~ Indian Railway, after it became the property of the State, as Government stores, whereas formerly they were classed in the trade ~~as~~ under general trade. A great quantity of material was also imported for the Frontier and other State lines of Railway. The increase was, in fact, almost entirely under this head. In the ten months of the current year, for which we have returns, the value of the imports has amounted to £1,806,000 as against £2,319,000 in 1880-81 and £1,070,000 in 1879-80. Of this sum of £1,806,000, £1,014,000 was for "Railway Plant and Rolling-stock," which cannot be obtained in India, as against £1,322,000 in 1880-81 and £322,000 in 1879-80 under the same head. Excluding this item, the figures for the three years would stand thus:—

						£
1879-80	...	...	...	...	...	748,600
1880-81	...	...	...	...	...	1,027,000
1881-82	...	...	...	...	...	792,000

The value of imports, other than Railway material, during the first ten months of 1881-82 is, therefore, £235,000 less than during the corresponding period of 1880-81, and £14,000 more than during the corresponding period of 1879-80. Little, however, is to be learnt by comparisons of this sort. The only way to watch the development of the policy is to compare the total quantities of any particular article supplied to the State, and note the proportion in which those quantities have been obtained locally or imported from Europe.

Jail manufactures.

134. In connection with the subject now under discussion I may mention that the question of jail manufactures is at present under the consideration of Government. A circular has been addressed to Local Governments with a view to ascertaining the precise nature of the articles which are sold either to the public or to Government, and, more especially, the system which is adopted in calculating the selling price of those articles. There can be little doubt that, in some instances at all events, articles manufactured at jails are sold at prices which preclude the possibility of fair competition. Moreover, it must in some places happen that one large jail can supply articles sufficient to meet the whole local demand, so that, irrespective of price, local enterprise is in danger of being crushed out. If the question be considered from the purely financial and economic point of view, it may, I think, be held that any diminution of the charge for jails thrown on Government is dearly bought at the expense of checking the growth of Native industries. The question, however, is not purely financial and economic. Behind it lies the far more difficult question of how prisoners can best be employed. I am not at present in a position to state the nature of the decisions at which the Government will ultimately arrive. All I can now say is that we recognise the importance of this difficult question, and that it will receive careful consideration.

IX.—The Opium Question.

The Opium Question from an economic point of view.

135. The main financial and political feature of the year which is about to close, is that, whereas at its commencement we were at war, or at all events were still burthened with a heavy War Expenditure, we are now at peace. With the advent of peace the Government has been able to turn its attention to questions of domestic policy. We have, during the course of the summer, passed under review the several branches of the Indian fiscal system, and I am now in a position to announce the decisions at which we have arrived in respect to several important points connected with that system. The first question to which I propose to allude is Opium.

136. It has been often stated that the Revenue which India derives from Opium is precarious. It will be desirable to examine to what extent this description is correct. *Extent to which the Opium Revenue is precarious discussed.*

137. The general belief that the Opium Revenue is precarious, appears, to a great extent, to be based upon the violent fluctuations which in past years have taken place in the prices realised for Bengal Opium at the Calcutta sales. Sir John Strachey, in his recent work on the Finances of India (Chap. XIV), has shown that the facts of the case do not altogether warrant any such inference. The fluctuations of price in past years were to a great extent due to the fact that great variations took place in the number of chests of Opium offered annually for sale.

138. Nevertheless, the Opium Revenue is exposed to some dangers of an exceptional nature. Moreover, those dangers are somewhat more prominent at present than they have been in past years. *Dangers to which it is exposed.*

139. The policy of the Government for the last two years has been to offer 56,400 chests of Bengal Opium for sale annually. The Opium crop is precarious. To ensure a continuous supply of 56,100 chests a year, it is necessary to maintain a reserve, in order that the surplus of good years may be used to supply the deficiencies in bad years. The average annual production of "provision" Opium,—i.e., Opium for sale by public auction, which is mostly exported to China,*—for the last twenty years, has been 50,154 chests. The crops of the years 1875-76 and 1876-77 were exceptionally good, producing respectively 68,051 and 67,167 chests of provision

* In addition to the quantity exported, about 4,000 chests of Bengal Opium are consumed in India. This is termed "Abkari" Opium.

Opium. The result was that a strong reserve was constituted. It has, therefore, been possible for the last four years to offer a large number of chests for sale.† But in order to effect this object, it has been necessary to draw on the reserve, which, in consequence, has been steadily diminishing, as the following figures will show:—

	Chests.
† 1878-79 ...	55,500
1879-80 ...	50,100
1880-81 ...	56,400
1881-82 ..	56,400
Average ...	56,850

	Chests in reserve.
1878 ...	48,482
1879 ...	31,622
1880 ...	25,183
1881 ...	21,752
Estimate for December 31st, 1882 ..	15,184

140. This process of depletion cannot continue indefinitely. An exceptionally good crop may, indeed, again replenish the reserve. But we cannot rely on a fortuitous circumstance of this sort. An average crop, or, at all events, a succession of average crops, will oblige us to resort to one of two alternatives. We shall be forced either to increase the production, or to diminish the amount offered for sale. *Depletion of reserve.*

141. The reports from the local authorities generally point to the conclusion that any considerable extension of cultivation, either in the Behar or the Benares Agency, is not to be anticipated. In order to maintain the existing cultivation it has recently become necessary to raise the price paid to the cultivators for crude Opium from Rs. 4-8 to Rs. 5 a seer. The increased cost of production resulting from this enhancement of price is estimated at £215,000. *Difficulty of extending cultivation.*

142. Whether, in the event of its being necessary to diminish the quantity of Opium offered annually for sale, we may expect to be recouped any loss of Revenue by increased prices, depends largely upon the competition of the Persian and the indigenous Chinese drugs. *Question of enhancement of price discussed.*

143. The quantity of Opium exported from Persia has increased during the last 10 years from 870 to 7,700 chests. It is believed that the cultivation of the poppy in Persia has not as yet reached its natural limits. The quality of Persian Opium is being gradually improved. Still, the evidence afforded by the Chinese Consular reports tends generally to show that Indian Opium is preferred to Persian by those who can afford to pay for the former of the two drugs. On the whole it may be said that the competition of Persian Opium constitutes a danger to the Indian Revenue, but that the danger is not at present very serious. *Competition of Persian Opium.*

*Competition of
Chinese Opium*

144. Turning to the question of the competition to be apprehended from the indigenous Chinese drug, a careful perusal of the Consular reports enables us to arrive at the following conclusions :—

(1) The production of Opium in China has greatly increased of late years and is still increasing. There is no reason to suppose that it has as yet nearly reached its natural limit. Consequent on the increased production and on the greater cheapness of the Chinese drug, there is a danger that amongst the poorer classes of the population, at all events, the Indian drug will be displaced by the Chinese.

(2) Up to the present time the Indian drug has been able to hold its own amongst the wealthy classes by reason of its superior quality. The quality of some of the Chinese drugs is improving, but even the best are still inferior to Indian Opium.

*Summary of con-
clusions in a review
of the economic
aspects of the
question.*

145. To sum up this brief review of the economic aspects of the question, the facts which I have so far elicited,—that is to say, the necessity of raising the price paid for crude Opium, the difficulty of extending the area under cultivation in India, the necessity which may be forced on us of reducing the quantity of Bengal Opium annually offered for sale, and the increase in the production and the improvement in the quality of the Persian and Chinese drugs,—all point to one conclusion, namely, that it is by no means improbable that the Opium Revenue may undergo some diminution. Although the amount of Revenue derived during the last four years has been very large, it would be unwise to count upon its continuance at so high a figure. There has quite recently been a sharp fall in the price realised for Bengal Opium at the Calcutta sales, and the Malwa trade has for some while been very stagnant. To this extent, therefore, the Opium Revenue may be said to be precarious.

*Consideration of
the question
from the moral
point of view.*

146. I have so far dealt with questions of fact. I now come to a much more difficult branch of the question. I must now leave the domain of fact and approach that of sentiment and morality, which opens a wide field for difference of opinion.

*The problem is
eminently a prac-
tical one*

147. A great deal has, from time to time, been written as to the effects of Opium, both on the individual and on the Chinese nation. I do not think that anything is to be gained by discussing this subject at any length. That Opium when used in moderation for medicinal purposes is beneficial; that in China it is very often used to excess; that when used to excess its effect is baneful; and that it would be better for the Chinese if they smoked less Opium,—are truisms which may be generally accepted.

The common-places on the subject may, to some extent at all events, be admitted by all parties. Even if it be conceded to the Anti-Opium Society that the effects of the drug are to the full as baneful as they allege, we should, whether from the Chinese or the Indian point of view, be no nearer than at present to the solution of the problem which we have in hand. It is useless to discuss what ideal condition of things would commend itself either to Chinese or to Indian statesmen. The problem we have to treat is eminently a practical one.

*Direct connection
of Government
with the trade.*

148. I pass on, therefore, to the consideration of the two points as to which the position of the Government of India has been especially attacked.

149. The first of these is the direct connection with the trade. It may be readily admitted that the Government of India being, as regards Bengal, manufacturers and dealers in the drug, are placed in a somewhat invidious and false position. But when we are invited to discontinue the present connection with the trade, we naturally ask, what is the precise nature of the alternative policy which is to be adopted? Does that policy merely involve the cessation of the connection between the Government of India and the Opium trade in Bengal? Or does it aim at a total suppression of the Opium trade between India and China? I think it may be inferred that the direct connection is merely regarded as a specially objectionable incident, and that the ultimate aim of the policy advocated by those who are opposed to the existing system under which the Revenue is raised in Bengal, is to prohibit the trade altogether.

150. In point of fact, in order to be consistent, those who object to the existing order of things in respect to Opium must of necessity go further than merely condemning the direct connection between Government and the trade. The avowed object of their policy is to stop the alleged demoralisation consequent on the extensive use of Opium in China. No one can for one moment pretend that the mere cessation of the direct connection between the Indian Government and the manufacture of Opium would of itself in any way tend to bring about this result.

A consistent Anti-Opium policy must aim at a total suppression of the trade.

151. The economic objections to the manner in which the Opium Revenue is raised, whether in Bengal or Bombay, may be admitted to be considerable. In the former case the Government itself engages in private trade,—a course which is open to obvious objections. In the second case, a very heavy export duty is imposed. In both cases the course adopted interferes with and restricts the free production of and trade in Opium. It cannot be doubted that it would be profitable to any private trader to pay for crude Opium a much higher sum than is now paid by the Government to the cultivators of Bengal. If, therefore,—supposing such a thing to be possible,—no restriction were placed upon the cultivation of the poppy, and if at the same time the export duty were taken off, it is certain that an immense stimulus would be given to the production of Opium, and that China would be flooded with the Indian drug. Thus, in direct proportion to the removal of the economic objections, the moral objections would be intensified in degree. So long, therefore, as the plea of the Anti-Opium Society is confined to the contention that the Indian Government should cease its direct connection with the Opium trade, it may be said, with perfect truth, that their policy is based purely on theory. Not only can it effect no practical good, but it almost certainly would do a great deal of harm. It would increase the consumption of Opium in China. It would, by cheapening the price of the Indian drug, cause the poorer classes of Chinamen, who now smoke native Opium, to substitute Indian Opium in its place. It would, moreover, encourage the use of Opium amongst the native population of India, some of whom, notably the Sikhs, are already addicted to the practice; and it would result in a diminution of the food-supply of India by reason of the cultivation of the poppy over tracts where cereals are now grown. If, therefore, the policy is to be not merely theoretical, but is to be productive of some practical good, it must aim, not only at the disconnection of the Indian Government with the manufacture and sale of Opium, but at the total suppression of the cultivation of the poppy. I shall presently (paras. 174—179) revert more particularly to the financial aspects of this question.

Economic objections to the present system.

152. As to whether it be more immoral for the Government to be directly connected with the manufacture and sale of Opium, than merely to derive a Revenue from the manufacture and sale of the drug by others, that is a point on which, without doubt, much difference of opinion may exist. I do not think that any useful object would be gained by a discussion of this point, or of the cognate question of whether, in Mr. Fawcett's words, there is "much difference between raising Revenue from Opium and raising 26 millions as we did in this country (England) to a great extent out of the intemperance, improvidence, and vice of the people."

Morality of the direct connection.

153. I turn to the second point, in respect to which the position of the Government of India has been especially attacked—namely, the policy pursued towards the Chinese Government in relation to the Opium trade.

Relations with China.

154. It has been stated that the treaty under which Opium is admitted into China was extorted from the Chinese Government; that the Chinese Government is now forced to admit Opium; and that it is both able and willing to put a stop to the consumption of Opium in China, if the foreign import trade were stopped.

155. These are grave accusations. I think, however, that I can show that it is wholly incorrect to say that the article in the Treaty of Tientsin, which provided for the admission of Opium, was extorted from the Chinese Government; that Indian Opium is in no way forced upon China, but that on the contrary, the Chinese Government derives a large Revenue from the import trade, which it is very unwilling to sacrifice; that the statement that the Chinese Government is willing to put down the use of Opium must be received with great qualifications; and that irresistible evidence is forthcoming to show that it is not able to stop it, even if its willingness to do so be freely admitted.

Erroneous statements on this subject.

The Chinese were not forced to admit Opium when the Treaty of Tientsin was signed.

156. I need not go into the history of the various wars which have from time to time been waged with China, or examine whether the policy of those wars was justifiable or the reverse. It may be very true that the Chinese were with difficulty got to assent to the terms of the Treaty of Tientsin. There is nothing very remarkable in the fact that at the close of a war the vanquished party should accept, with great reluctance, the terms on which the victors insist. But ~~on this point~~ the particular point which we are now discussing, namely, the admission of Opium into China, we have excellent evidence to show that it is wholly incorrect to say that this provision of the Treaty was extorted from the Chinese. Mr. Lay, who was Chinese Secretary to Lord Elgin's Mission, and who personally conducted the Tariff negotiations, has specifically stated that "the Chinese Government admitted Opium as a legal article of import, not under constraint, but of their own free will deliberately." Mr. Laurence Oliphant, who was Secretary to the Mission, has confirmed Mr. Lay's statement, and has added that he informed the Chinese Commissioner that he had "received instructions from Lord Elgin not to insist on the insertion of the drug in the Tariff, should the Chinese Government wish to omit it. This he (the Chinese Commissioner) declined to do. I then proposed that the duty should be increased beyond the figure suggested in the Tariff; but to this he objected, on the ground that it would increase the inducements to smuggling." Mr. Lay's and Mr. Oliphant's statements appeared in the *Times* of October 22nd and October 25th, 1880. Their evidence, I venture to think, is a conclusive answer to the charge that the clause of the Tientsin Treaty, under which Opium is admitted into China, was extorted from the Chinese.

Neither are they forced to admit it now.

157. No less conclusive is the evidence that the foreign drug is not now forced on the Chinese Government, but that, on the contrary, it would view with dislike the cessation of a trade from which it derives a large Revenue. The account which Sir Thomas Wade gives of a conversation he recently held with the Chinese Ministers affords remarkable testimony on this point. In a telegram to Lord Granville of February 7th, 1881, he says: "I went to the Yamen on the 16th to speak of various matters. Four Ministers received me. Adverting to Opium, I observed that the authorities in some places were taxing Opium, native and foreign; in others, were trying to increase the sale and consumption of both. Without at all denying the right of the Chinese Government to do as it chose, I should wish to know which course the Government approved. They said the question was embarrassing. The Chinese Government would be glad to stop opium-smoking altogether, but the habit was too confirmed to be stopped by official intervention. No idea of abolishing the trade at present was in the mind of the Government. Alluding to the desire of well-disposed people at home to see England withdraw from the trade, I asked if it would be of any use to diminish yearly the exports from India. The Indian Government might be thus enabled to provide otherwise for loss of income. They said, so long as the habit exists, Opium will be procured, either from India or elsewhere. Any serious attempt to check the evil must originate with the people themselves. The measure I suggest would affect Chinese Revenue, but would not reach the root of the mischief."

The Chinese Government is unable to stop the use of Opium.

158. I turn now to the question of whether the Chinese Government is both able and willing to stop the use of Opium.

159. Numerous edicts, couched in the most peremptory terms, have been from time to time issued to prohibit the use of Opium and the cultivation of the poppy. In issuing these decrees, the Chinese Government may be credited with a certain amount of sincerity. Without doubt, the Emperor of China, his Ministers, and the most enlightened portion of the population of China, deplore the extensive use of Opium. If they could afford the loss of Imperial Revenue consequent on the importation of foreign Opium,—if they could exercise any real control over the numberless corrupt officials who earn a livelihood from the use of the native drug,—if they thought it were possible to deal with a great social evil of this sort by legislation, and to coerce a large part of the population of a vast empire into a groove contrary to their inveterate habits and the current of their every-day life,—it is not improbable that they would gladly see the use of Opium abandoned. But, whatever be the views which the Chinese Ministers

entertain on this question in the abstract, nothing is more certain than that they, equally with the Indian Government, would be embarrassed by the loss of Revenue which would be caused either by a cessation of the foreign trade in Opium, or by the suppression of the manufacture and sale of the drug in China; that, save on rare occasions, when some specially energetic official may have produced a temporary effect, they have up to the present time never earnestly endeavoured to check the use of the drug; and that they recognise, both by word and deed, their complete inability to do so. A mass of evidence from the Consular reports might be adduced in support of these conclusions.

160. I now proceed to deal with the final branch of the subject, namely, the practicability of adopting any measures which shall render the connection of the Government of India with the Opium trade in Bengal less direct.

*Practicability of
keeping the direct
connection with the
trade.*

161. This subject has been already frequently under the consideration of the Government of India. It was fully discussed in 1858, and again in 1864, when Sir Charles Trevelyan recorded his opinion in favor of a change of system. "The Opium monopoly," he said, "forms no exception to the general category of Government monopolies. It will be found, when the trial is made, that its abolition will be attended with the same good effects as the throwing open of the India and China trade and the abolition of the Bengal salt monopoly." In other words, Sir Charles Trevelyan looked at the question from a purely economic point of view. He did not in any way contemplate interfering with the cultivation of the poppy. On the contrary the object of his policy was evidently to extend it. It was again considered in 1868, at the instance of Sir William Muir. On the occasion of each discussion the balance of opinion was strongly in favour of the continuance of the monopoly system.

*Opinion of the
occasion of
former discus-
sions.*

162. In attempting to deal with this question, we are at the outset met by the difficulty to which I have already alluded. Is the final object of the policy, which we occasionally are invited to adopt, to be the severance of the direct connection between the Government of India and the Opium trade, and the substitution of private enterprise in the place of the Government monopoly? Or are we to aim at the total suppression of the cultivation of the poppy and of the Opium trade, in so far, at all events, as British India is concerned? It is absolutely necessary to have a clear idea as to which of these two alternative policies is to guide the action of Government. It is difficult, if not impossible, to effect any compromise between them.

*Doubts as to true
nature of policy
proposed.*

163. For the reasons which I have already given, I think it may be assumed that the ultimate aim of a consistent Anti-Opium policy must be to suppress the manufacture and sale of Opium altogether, or, at all events, to limit it to the Native States of India. I proceed, therefore, in the first instance, to discuss the question of abolishing the monopoly on the hypothesis that we are to aim at a total suppression of the trade in so far as Bengal is concerned.

*Discussion of the
question on the
assumption that
the aim of the
policy is total
suppression in
British India.*

164. It has been alleged that the careful development of the resources of India, combined with economy in expenditure, would provide for any gradual loss of money which the abandonment of the Opium Revenue in Bengal might entail.

165. The average net Revenue derived from the sale of Bengal Opium during the last ten years is £1,358,000. During the last three years the average Revenue has been £5,450,000. In dealing with a fluctuating Revenue of this sort it is difficult to speak with great accuracy, but I shall perhaps be not very far from the mark if I assume that the total abandonment of the Revenue derived from Opium in Bengal would cost about £5,000,000.¹

*Bengal net Re-
venue.*

166. This, however, does not represent the whole of the case. On the one hand the cessation of the poppy cultivation in Bengal would probably give a stimulus to the Malwa trade. Malwa Opium, I need hardly say, is manufactured wholly in the Native States of India. We cannot interfere with the growth

*Stimulus to Malwa
trade.*

¹ I ought to explain that the receipts under the head of *Opium* include (1) the money realised at the Calcutta sales; (2) the receipts from the Malwa pass duty; (3) that part of the sale proceeds of Opium, sold in the Excise Department, which is taken as representing cost price. About one-third of the sale proceeds are credited under *Opium*, and about two-thirds under *Excise*. The average net Provincial receipts for the last ten years on account of the sale of Bengal Opium, which have appeared under *Excise*, amount to £381,000. It is impossible to say how far these receipts would be affected if the monopoly were abolished. Probably Malwa would, to a certain extent, take the place of the Bengal drug; but if this were the case, the Imperial Government would lose the amount of the pass-duty upon the number of chests consumed locally. All that can be said on this subject is that some loss would certainly be incurred, both by the Imperial and Provincial Governments, over and above the £5,000,000 mentioned above.

of the poppy in those States, neither could we prevent Opium being exported from them without maintaining a costly preventive line, the establishment of which would be open to great and obvious objections. It is quite impossible to frame any estimate of the degree to which we should recoup any loss of Revenue by increased receipts on account of export duty; but it may be predicted with certainty that the total loss would not nearly be recouped.

167. On the other hand, whilst the operation of the causes which would tend to ~~show~~ the loss of Revenue are uncertain, the same cannot be said of those which would tend in an opposite direction.

*Aggravation of
Exchange diffi-
culty.*

168. In the first place, the diminution of the export trade from India to China would aggravate the exchange difficulty. It is almost needless to observe that one of the elements which regulates exchange between England and India is the balance of trade between the two countries. The China trade, however, exercises a very important influence on exchange. England owes China a large sum of money annually, which represents the excess of imports from China over exports from the United Kingdom. China, on the other hand, owes India

* In the last year (1880-81), for which the returns are complete, the balance of trade in favor of India was £11,282,555.

a large sum annually, mainly for Opium.* This debt is, in a great measure, paid by transferring to India a portion of England's

debt to China. If, therefore, the export trade from India to China were diminished by, say, £1,000,000 a year,¹ it is clear that a very depreciatory influence would be exercised on exchange between India and England. It is impossible to estimate the loss which would thereby be caused to the Indian Treasury, but it cannot be doubted that it would be considerable.

*Necessity of pro-
viding for present
staff.*

169. In the second place, provision would have to be made for the present staff employed under the Bengal monopoly system, either by pensions, gratuities, or the bestowal of other places under Government. This would probably result in a heavy charge being thrown on the Government for some years.

170. For the sake of argument, however, I leave out of account these important but uncertain factors. I assume that the loss to the Indian Government would, as stated above, be £5,000,000.

*The total loss of
Revenue in Ben-
gal could not be
recouped.*

171. It cannot be too clearly understood that neither by any means tending to develop the resources of the country, nor by any increase of taxation which is practically within the range of possibility, nor by any reduction of expenditure, could the Government of India in any adequate way at present hope to recoup the loss which would accrue from the suppression of the poppy cultivation in Bengal.

*The sacrifice of the
Bengal Opium
Revenue would
render India
insolvent.*

172. As regards the development of which the resources of the country are capable, it is to be observed that a great deal has been done in the last thirty years. Yet it may safely be stated that those resources are as yet only half developed. Hopes are now entertained that a stimulus may be given to the rapid construction of railways through the agency of private enterprise; but it is evident that, however successful this policy may eventually prove to be, some years must elapse before its full effect can be produced. Again, it is a notorious fact that any aggregate increase of taxation is open to the strongest economical and political objections; whilst, in respect to some branches of the fiscal system, a reduction of taxation is very necessary. As regards any economy which may be effected in expenditure, it is to be observed, in respect to the civil branches of the service, that, even if the most radical reforms which have from time to time been suggested, were carried into effect, any economies in this direction could bear but a slight proportion to the Revenue which would have to be abandoned if the poppy cultivation in Bengal were altogether suppressed, whilst, on the other hand, it is certain that, as civilisation advances, new wants will be developed, which will involve an increase of civil expenditure. As regards military expenditure, proposals have already been made to the Secretary of State which, if they receive the sanction of Her Majesty's Government, will result in considerable economy. No economies in the military branches of the service could, however, be effected, which would in any adequate manner balance the total loss of the Bengal Opium Revenue, without incurring political dangers of the most serious description. It is the duty of the Government of India to speak very plainly on this

¹ This is allowing £1,000,000, by comparison with the estimate of £5,000,000, for increase in the Malwa trade.

subject. The difficulties of this problem have to be fairly faced. The hard facts of the case, whether from the Chinese or the Indian point of view, have to be borne in mind. Those facts can neither be altered, nor can their significance be attenuated, by any enunciation of abstract principles. It is, therefore, essential that all who are interested in the question should have clearly before their eyes the opinion of those who for the time being are responsible for the conduct of the Indian finances. That opinion, as I venture to formulate it, is that the Government of India at present quite unable to devise any means by which the loss of Revenue consequent on the suppression of the poppy cultivation in Bengal could be recouped, and that, until such means be devised, the loss of the Bengal Opium Revenue would result in the normal annual expenditure of the Government being greater than its receipts; that is to say, that India would be insolvent. I wish to state this in language which admits of no misapprehension, in order that those who may have to deal with this matter should do so with a perfect knowledge of the facts of the case, and after due warning that any present attempt to abandon the Opium Revenue, whilst conferring a very doubtful benefit on the population of China, would do incalculable harm to the 250 millions of people over whom we rule in India.

173. From the language which is occasionally used on this subject in England, I am led to infer that many influential persons, animated by a laudable zeal to benefit the population of China, are perhaps somewhat forgetful of the duty we owe to the population of India. It has been calculated that the average income per head of population in India is not more than Rs. 27 a year; and, although I am not prepared to pledge myself to the absolute accuracy of a calculation of this sort, it is sufficiently accurate to justify the conclusion that the tax-paying community is exceedingly poor. To derive any very large increase of Revenue from so poor a population as this is obviously impossible, and if it were possible, would be unjustifiable. Apart from the practical issues involved, there are, indeed, two aspects of the question from the point of view of public morality. If, on the one hand, it be urged that it is immoral to obtain a Revenue from the use of Opium amongst a section of the Chinese community, on the other hand it may be replied that to tax the poorest classes in India in order to benefit China, would be a cruel injustice, and it is to be remembered that no large increase of Revenue in India is possible unless by means of a tax which will affect those classes. To tax India in order to provide a cure,—which would almost certainly be ineffectual,—to the vices of the Chinese, would be wholly unjustifiable.

174. I turn now to the consideration of the question on the supposition that the ultimate aim of the policy is not the total suppression of the poppy cultivation in Bengal, but merely the severance of the direct connection between the Government and the Opium trade, and the substitution of private enterprise for the Government monopoly.

175. The actual cost of a chest of Bengal Opium, including interest on the capital employed and all indirect charges, is Rs. 421.¹ The average price realised at the Calcutta sales for the last ten years is Rs. 1,280 per chest. The average profit, therefore, realised on a chest of Bengal Opium may be taken at Rs. 859.

176. The next point to be decided is the export duty which a chest of Bengal Opium would stand in the event of this method of deriving Revenue being substituted for the Government monopoly. It is certain that, in order to arrive at a correct conclusion on this point, we must leave a large margin of profit to the exporter. The trade would be very speculative. The risks being great, no one would embark in the trade unless a large margin of profit were left. Moreover, it is probable that a private individual would have both to give more liberal advances to the cultivators, and to pay a higher price for crude Opium, than is paid by Government. The local officers, who have from time to time been consulted, are unanimous in thinking that the security afforded by dealing with Government is an important element in deciding the cultivators to grow the poppy.

¹ I take the average cost of production of Behar and Benares Opium.

No private individuals could offer so good a security. Again, it is quite impossible to foresee the consequences on the China market of the withdrawal of the Government from the trade. Bengal Opium holds its own by reason of its high quality. The Government mark is regarded as a sufficient proof of the purity of the drug. It is almost certain, therefore, that if the manufacture were in the hands of private individuals, the price of Bengal Opium in China would fall. Under these circumstances, I think it is taking an optimist view to suppose

* The export duty on Malwa Opium is at present Rs. 700 a chest; but it is to be borne in mind that, although the weight of a chest of Malwa and of a chest of Bengal Opium is equal, namely, 140 lbs avoirdupois, or a Chinese *picul* (133½ lbs.) plus 5 per cent., which is appropriated by the middlemen in the trades as perquisites, the consistence of the different classes of Opium is different. Malwa Opium contains generally from 80 to 95 per cent of fine Opium; that is to say, that at the lower of these two consistences it contains 126-128 lbs. avoirdupois of pure Opium. A chest of Behar Opium is of 75° or consistence; that is to say, it contains 105-107 lbs. of pure Opium. A chest of Benares Opium is of 70° consistence; that is to say, it contains 98-100 lbs. of pure Opium. A duty, therefore, of Rs. 700 on Malwa Opium is analogous to a duty of Rs. 583 a chest on Behar Opium, or of Rs. 541 a chest on Benares Opium.

that Bengal Opium would stand an export duty of Rs. 600 a chest.*

177. The average number of chests of Bengal Opium sold in the last ten years (1871-72 to 1880-81) was 49,337. It is very difficult to say what number of chests would be exported if the Government abandoned the monopoly. On the whole, however, I do not think that with a duty of Rs. 600 we ought to reckon on an export of more than 45,000 chests a year. I put forward this estimate under great reserve, for, in dealing with a subject of this sort, any estimate that can be framed must be little more than a conjecture. A duty of Rs. 600 on 45,000 chests would give £2,700,000 a year. The net Revenue derived from Bengal Opium may be taken at about £5,000,000. This figure, however, includes the receipts from the Excise Department on account of Abkari Opium.

† As the Abkari Opium is sold at cost price to the Excise Department, these £172,000 may be entirely left out of the calculation. On the one hand, the Imperial Government would not have to spend this sum of money: on the other hand, it would not receive it. It is, however, to be borne in mind that in addition to the loss of £2,128,000 to the Imperial Government, the Provincial Governments would certainly lose some portion of their Excise Revenue (average £381,000) by the abolition of the monopoly.

The average receipts on this account for the last ten years amount to £172,000. The receipts from the Calcutta sales may, therefore, be taken at £5,000,000—£172,000† = £4,828,000. The difference between this figure and £2,700,000, *viz.*, £2,128,000, represents the probable

loss which would be incurred from the abolition of the Government monopoly.

178. This calculation, however, does not represent the whole of the case. It is certain that, if the change of system under discussion were carried into effect, a large preventive establishment would have to be maintained, and that, even with such an establishment, it would be well nigh impossible to prevent smuggling.

179. These considerations lead irresistibly to the conclusion that there is only one way by which the system of levying an export duty might possibly be substituted for the Government monopoly without a financial loss which it would be impossible for the Government of India to afford. As the profit to be derived on each chest of Opium would be considerably diminished, it would be necessary, in order to recoup the loss, that the number of chests produced should be largely increased; and without doubt, if the export duty were very low, production would considerably increase. In other words, the Government of India, by withdrawing from the trade, would probably intensify the evils which the Society for the Suppression of the Opium Trade so much deplore. The Chinese market would be glutted with Indian Opium at a relatively cheap price.

180. I venture to think that this is a conclusive argument against any change of system. We are in this dilemma, that if the average production of Opium fell off, a loss of Revenue would be involved, which it is out of the question that the Government should incur; and, on the other hand, if the hazardous experiment which we are invited to try should succeed, the results would be, not only to increase the amount of opium-smoking amongst the Chinese, but to run a great risk that its use in India would be much extended.

181. For these reasons the Government of India deprecates any attempt to withdraw from the monopoly. The system at present works well. It cannot be too clearly understood that any change whatsoever would involve a great risk to the Indian Revenue, whilst it would almost certainly not contribute to the objects which the Society for the Suppression of the Opium Trade have in

Loss roughly
estimated at
£2,128,000.

Maintenance of a
Preventive Estab-
lishment.

Withdrawal from
monopoly would
stimulate consump-
tion in China.

The Government is
opposed to with-
drawal.

view. In fact, the greater the degree of success which attends the experiment, the less will the objects which the Society have in view be attained.

182. Although, however, the actual financial situation of India precludes for the present any attempt to tamper with the Opium Revenue, it does not necessarily follow that this state of things should always prevail. Reform in other branches of the fiscal system must for the present engage the attention of the Government. Again, money must be found in one form or another to push on that development of the country which a leading member of the Anti-Opium Society has himself recognised must be a preliminary to any reform in the system under which the Opium Revenue is collected. Without taking too optimistic a view of the future, we may be permitted to hope that fiscal reform, accompanied by a rapid extension of railways and canals as the financial exigencies of the situation will permit, may possibly bring within the scope of practical politics plans which cannot now be considered as otherwise than visionary. If we are ever to abandon the Revenue now derived from the poppy cultivation in Bengal, by far the wisest plan will be to maintain the monopoly in the hands of the Government. From the administrative point of view the suppression of the cultivation in Bengal presents but few difficulties. We have only to diminish the price paid for crude Opium, and the cultivators would substitute other crops in the place of the poppy. If, however, private enterprise be allowed to occupy the field, vested interests will be created, and the difficulties of ultimately dealing with the question will almost certainly be enhanced. In the meanwhile the best hope of ever carrying out the policy, which commends itself to the Society for the Suppression of the Opium Trade, will be to derive for the present as large a Revenue as possible from Opium and to utilise it to the best advantage. It is just within the range of possibility that if this policy be adopted, it may ultimately place the Government of India in such a situation as would enable it to suppress the cultivation of the poppy in Bengal altogether, should it be thought desirable to do so.

It is just possible that at some future time the Government may be able to deal with the question.

183. One further point demands attention. It cannot be doubted that Native opinion in India would strongly resent any additional burdens being placed upon the tax-payers with a view to the abandonment, either whole or partial, of the Opium Revenue. It is, moreover, more than probable that the views of the British Government on this subject would be misunderstood. "There must," a Native newspaper said a short time ago, "be some selfish motive at the bottom of the movement made in England for the suppression of the Indian Opium trade." No doubt an opinion of this sort is very foolish. The high motives which guide the action of the Society for the Suppression of the Opium Trade cannot for a moment be doubted. However much we may consider that the views they express do not take sufficient account,—whether from the Chinese or Indian point of view,—of the practical difficulties connected with the problem they have set themselves to solve, no reasonable person can fail to respect their motives. I trust that I have said nothing which can in any way be construed in an opposite sense. Without doubt the gentlemen who take an active part in the agitation against the Opium trade would be the first to protest if they thought the Indian ryots were suffering from any grievous injustice. But, on the other hand, it cannot be doubted that the opinions foreshadowed in the Native print from which I have quoted above are prevalent in India; that they would find louder and more frequent expression if it became generally understood that there was any serious intention of moving in the direction proposed by the Anti-Opium Society; that, even supposing England were to award a considerable compensation to India, it is exceedingly improbable that such compensation would adequately meet the loss involved in the abandonment of the Opium Revenue; and that, in consequence, a sense of injustice would be engendered amongst the Natives of this country, who would consider either that their interests had been sacrificed from selfish motives, or, at all events, that, in our regard for the Chinese, we had done an injustice to our own subjects. The fact that the measure would contribute to alienate from us the feelings of the Natives of India, is certainly an element which ought not be neglected in dealing with this question.

Native opinion on the subject.

184. I now proceed to deal with the question of the degree of reliance which should be placed on Opium in balancing our Estimates of Revenue and Expenditure.

The Opium Estimate.

185. The Opium Revenue was this year estimated at £6,500,000 net. In comparing this estimate with the actual net Revenue of past years, a great deal depends on the number of years for which an average is taken. The average net Revenue for the last ten years (1871-72 to 1880-81) is £7,052,000; for the last five years £7,441,000; for the last four years £7,731,000; for the last three years, £8,135,000; and for the last two years, £8,351,000. The Revenue has been rising during the last four years. The result is that the further we go back the lower the average becomes. But whatever standard of comparison is adopted, there can be no question that at present £6,500,000 net is an under-estimate.

186. This estimate has during the course of the year formed the subject of a good deal of discussion and criticism. The matter has been carefully reconsidered by the Government, and I am now in a position to announce the result of our deliberations.

Under-estimate of Opium in former years.

187. In dealing with other items of Revenue and Expenditure, the Budget Estimate for the coming year is usually based on the Regular Estimate of the year about to close, due allowance being, of course, made for any exceptional circumstances which may have occurred in the current year, or which may be expected to occur in the coming year. The Opium estimate has, however, received exceptional treatment. A much wider margin has been left for a possible diminution in receipts than would be considered necessary in dealing with other branches of the Revenue. It is generally recognised that some extra amount of caution should be adopted in framing this estimate, but it has been urged that, under present circumstances, an estimate of £6,500,000 errs on the side of excessive caution, and that this sum is far less than we may expect to receive after all reasonable deductions have been made from the actuals of the last few years.

Is it safe to take off taxes in reliance on Opium?

188. Whether, however, we take the Opium estimate at £6,500,000 and reduce our nominal surplus by the amount of Revenue which we really expect to derive, or whether we take an Opium estimate of any other higher figure, say £8,000,000, and increase our nominal surplus by £1,500,000, is, relatively speaking, a matter of secondary importance. The really important issue involved is to what extent we may take off taxes or incur additional expenditure in reliance upon Opium.

Average receipts since 1871-72.

189. Before proceeding to answer this question, I invite attention to the figures given in the following table:—

YEAR.	BENGAL.			BOMBAY.	Total Net Revenue.	
	Number of chests sold	Price per chest.	Net Revenue.	Net Revenue.		
		Rs.	£	£	£	
1871-72	...	49,695	1,338	5,305,402	2,351,811	7,657,213
1872-73	...	42,675	1,386	4,259,162	2,611,261	6,870,423
1873-74	...	42,750	1,266	3,584,758	2,738,841	6,323,599
1874-75	...	45,000	1,207	3,264,266	2,950,817	6,215,083
1875-76	...	45,510	1,260	3,707,170	2,545,690	6,252,860
1876-77	...	47,240	1,270	3,334,338	2,940,475	6,280,813
1877-78	...	49,500	1,266	3,773,764	2,747,692	6,521,456
1878-79	...	55,500	1,225	5,319,459	2,391,212	7,710,671
1879-80	...	59,100	1,170	5,112,325	3,139,345	8,251,670
1880-81	...	50,400	1,362	5,926,836	2,524,458	8,451,294
1881-82 (Regular Estimate)		56,400	1,324	5,821,500	2,216,500	7,838,000

Increased receipts due to Bengal sales.

190. It will be observed that the increased receipts of the last few years (except in 1879-80) have been mainly derived from the Bengal sales, and not from the pass-duty on Malwa Opium. The receipts on account of Malwa Opium have varied according to no very precise law. The high receipts (£3,139,345) for 1879-80 were, it is believed, largely due to over-speculation. Turning to Bengal Opium, it will be noticed that the great increase in the receipts has

taken place during the last four years, and that this increase has been contemporaneous with the period during which a relatively large number of chests has been offered for sale.

191. We know, from the present state of the reserve (*vide ante*, para. 139), that we shall be able to offer 56,400 chests for sale during the whole of the financial year 1882-83. But we cannot speak with any confidence as to our ability to continue the sale of 56,400 chests annually after the close of the year 1882-83. When the yield of the poppy crop now in the ground is known, the desirability of giving the year's notice required by custom of a diminution in the number of chests of Bengal Opium to be offered for sale in 1883-84 will be matter for consideration. The position of affairs, therefore, is as follows. The net receipts from Opium for the year 1881-82 are now estimated at £7,838,000, being £613,000 less than the actuals of 1880-81. This considerable difference shows the necessity for caution. Further, we must look forward to the possibility of a diminution of the Revenue during the year 1883-84, by reason of a smaller number of chests than heretofore being offered for sale. Future prospects.

192. In answering, therefore, the question of how far we may safely take off taxes in reliance on the Opium Revenue, a great deal depends on the nature of the tax we take off. If we abandon a source of Revenue which involves a permanent and absolute loss of money, and which, moreover, from whatsoever reason, it would be difficult, in the event of the Opium Revenue failing, to restore to its former position, then the course would be open to great objection. If, on the other hand, we reduce a duty with a fair hope that the reduction will increase consumption, and thus, after a while, recoup us for any loss, and if, moreover, the duty can, without any great fiscal disturbance, be re-imposed in the event of the Opium Revenue falling off, then the reduction of taxation would be unobjectionable. The Salt Duty falls within the latter of these two categories.

193. It has been decided, therefore, to estimate the net Opium Revenue in 1882-83 at £7,250,000 and simultaneously to afford some substantial relief to the tax-payers in the shape of a reduction of the Salt Duty. This estimate leaves a margin of £588,000 as compared with the Regular Estimate for the current year, and is £1,201,000 below the actual receipts of 1880-81. Bengal prices, as I have already remarked, are falling, and the Malwa trade is unusually depressed. Under these circumstances it would not be prudent to take a higher estimate than that which is now proposed.

X.—The Salt Duty.

194. If the policy which has been pursued by successive Governments of India for the last 12 years in respect to Salt be considered as a whole, it cannot be doubted that that policy has been eminently successful. The duty has in the aggregate been considerably reduced, yet the net Salt Revenue, which in 1868-69 stood at £5,176,000, stands, according to the Regular Estimate of the current year, at £6,809,000.¹ In Sir John Strachey's words, it has been "found General success of past policy. financially more profitable to levy the Salt Duty at a moderate rate on a "maximum consumption, than at a high rate on a restricted consumption."

195. There have, indeed, been some disadvantages to counterbalance the advantages which the policy has bestowed on the country in general. Whilst the inhabitants of Bengal and Northern India have been relieved of taxation, those of Madras, Bombay, and the Native States of Rajputana and Central India have been obliged to pay a higher price for their salt. The number of persons who have been relieved of taxation has, however, been numerically larger than the number on whom additional taxation has been imposed.

196. The actual situation is as follows. A duty of Rs. 2-8 is levied all over British India, except on salt imported by sea into, or manufactured in, Bengal and on salt consumed in the trans-Indus districts of the Punjab and in Burma. In Bengal the tax is Rs. 2-14 a maund. In the trans-Indus districts of the Punjab, salt is consumed which is produced at the Kohat mines, and on which a duty varying from 2½ to 4 annas a maund is levied. A preventive line extends for some 320 miles along the Indus. In Burma the duty is only 3 annas a maund. Rates of duty now levied.

197. The advantages to be gained by a reduction of the Salt Duty are two-fold. In the first place, it is exceedingly desirable to reduce the price of a Advantages of reduction.

¹ See Statement X. This figure is what the Regular Estimate would be, supposing no change to be made in the rate of duty.

necessary of life which is used by the poorest classes. In the second place, the general financial situation will, as I shall presently show (para. 201), be much strengthened.

*Levy of general
rate of Rs. 2 a
maund.*

198. We propose, therefore, to reduce the Salt Duty to Rs. 2 a maund everywhere except in Burma and the Trans-Indus Districts of the Punjab. The differential duty of 6 annas, now levied in Bengal will thus disappear. It is not proposed to make any change in Burma, or, for the present, in the trans-Indus districts of the Punjab.

*Increase of con-
sumption con-
sequent on a reduc-
tion of duty.*

Provinces.	lbs.
Madras	12
Bombay	10
Bengal	9 1
Punjab	7 5
North-Western Provinces and Oudh...	6
Sind	5

199. The extent to which the reduction of duty will stimulate consumption remains to be considered. The annual average licit consumption in the principal provinces of India per head of population according to the new census, is stated in the margin. The differences are remarkable, but they must be viewed with modifications due to a variety of circumstances. It is especially to be borne in mind that the people of Northern India, both by reason of the climatic influences to which they are exposed, and to the fact that their staple food consists of wheat and pulses, require less salt than those of Southern India. At the same time, the reports of the political officers in Rajputana go to show that the inhabitants of the Native States, in which the Salt Duty was recently enhanced, have greatly diminished the consumption both of themselves and of their cattle. I do not conceive that, in respect to this particular question, the inhabitants of Rajputana differ materially from those of the North-Western Provinces, Oudh, and the Punjab. I am, therefore, led to infer that if the rate of duty were lowered, the consumption of salt in Northern India might be considerably increased. Further, the consumption in Madras has not for the last 12 years reached the figure of 6,693,000 maunds at which it stood in 1868-69 when the duty was raised from Rs. 1-8 to Rs. 1-13 a maund. It is almost certain, therefore, that consumption will be increased by so large a reduction as 30 per cent. in Bengal and 20 per cent. elsewhere. In matters of this sort the wisest policy is generally to act with boldness. A slight reduction in the duty would very probably not reach the consumer.

*Salt Estimate for
1882-83.*

200. We have no reliable data on which to make any very precise estimate of the increase of consumption which may be anticipated. So many disturbing causes have been at work in the last few years, during which the main changes have taken place, as to invalidate the accuracy of any calculations based on the figures which are available. For instance, in Madras the falling off in consumption from 6,215,000 maunds in 1877-78 to 5,988,000 maunds in 1878-79, must have been due not only to the enhancement of price, but also to the loss of life during the famine, which was estimated by the Famine Commissioners at 5 per cent. of the total population. Again, it is difficult to say to what extent the rise in the Salt Revenue of Northern India is due to increased consumption in British territory alone, and to what extent it represents the consumption of salt in the Native States since the abolition of the Customs Line. Further, sufficient time has not yet elapsed to enable a fair estimate to be formed of the normal consumption in the Native States. The old stocks, which remained on hand when the Customs Line was abolished, have scarcely yet been exhausted. On the whole, however, after a careful examination of the detail, I think that we may safely take the Net Revenue for 1882-83 at £5,410,000, being about £1,400,000 below the Regular Estimate for 1881-82 (£6,809,000).¹

*Increase of strength
to the general
financial position.*

201. I have said that, by reducing the Salt Duty, the general financial position will be strengthened. We hope that we shall be able to maintain the duty at Rs. 2 a maund, and we have at present no reason to suppose that we shall be unable to do so. By a return to a higher rate we should, of course, to some extent at all events, sacrifice the main object we have in view, *viz.*, to afford some relief from taxation to the poorest classes. At the same time I should observe that if any unforeseen circumstance, such as a heavy fall in the value of silver, takes place, and if, at the same time, the reduction in the Salt Duty does not result in any considerable increase in the consumption of salt, it would be open to us to return temporarily to a higher rate. This is an expedient to which

¹ See Statement X. This is what the figure of the Regular Estimate would be supposing no reduction to be made in the duty.

the Government would have recourse with great reluctance. I allude, however, to the possibility of its adoption, for it is clear that should an emergency arise of a nature to diminish our other sources of Revenue or to increase our Expenditure, we shall be in a better position to meet it if the Salt Duty is Rs. 2 a maund than if it were levied at a higher rate.

202. The method adopted for calculating the selling price of salt, exclusive of the duty, has recently been under the consideration of the Government. *Method of calculating sale price of Government salt.* The general principle which should guide the action of Government in this matter is plain enough. Government salt should be sold at a price which covers the cost of production. If all the legitimate charges consequent on production and manufacture are not included, the State loses money and the private manufacturer of salt is placed at a disadvantage. If, on the other hand, a sum in excess of the legitimate charges is included in the calculation, the consumer really pays a higher price for his salt than is contemplated by the Legislature. This subject was fully discussed in a recent Government Resolution (see *Gazette of India* of January 21st, 1882). I need not, therefore, allude to it in detail. It will be sufficient for me to say that a distinction has now been made between those charges which, on the one hand; are common to all systems of collecting the Revenue,—i.e., Customs, Excise, and Monopoly,—and which arise out of the taxation of salt by the Government, and those which, on the other hand, are incidental to its manufacture. The former will be excluded from the calculation on which the selling price of Government salt is based. The latter will be included.

XI.—The Customs Duties.

203. I now turn to the important question of the Customs Duties. I need not dwell at any length on the history of the reforms which during the last few years have been made in the Tariff. Every member of this Council must be familiar with the nature of those reforms. *The Customs Duties.*

204. In 1875 the Tariff was carefully revised. The general rate of import duty was reduced from $7\frac{1}{2}$ to 5 per cent., and a duty of 5 per cent. was imposed on foreign raw cotton. Cotton goods, oils, seeds and spices were freed from export duty. *The Tariff of 1875.*

205. In March 1878 certain descriptions of grey goods were exempted from duty. The duty imposed on foreign raw cotton in 1875 was abolished. Prior to that time the articles liable to pay Customs duty on importation were classified into sixty-two major heads. Twenty-nine of these heads were exempted from duty. *The changes in March 1878.*

206. These measures, which were avowedly of a tentative nature, failed to give satisfaction. In February 1879, therefore, a Commission, consisting of Messrs. Hope and Maclean, was appointed to enquire into the matter. Briefly it may be said that the result of their investigations was to show that “the really proximate source of the complaints which have arisen is the fact that there is little essential difference between the cloths which have been exempted, and large classes of cloth, otherwise styled, which have not.” It was determined, therefore, to exempt from duty all cotton goods containing no yarn of a higher number than 30s, and a notification to that effect was issued on March 13th, 1879. Thus the matter now stands. *The changes in March 1879.*

207. The effect produced on the cotton trade by the recent changes in the Tariff has been very remarkable, as the following figures of value of imports in lakhs of rupees (tens of thousands of pounds, at Rs. 10 the pound) will show :— *Effect of recent changes on the cotton trade.*

	GREY PIECE GOODS.		Other Goods.	Total Cotton Goods.
	Free.	Dutiable.		
Average 1875-76 to 1877-78 ..	...	1,078	860	1,938
1878-79 ...	33	832	826	1,691
1879-80 ...	454	581	927	1,966
1880-81 ...	983	372	1,306	2,661
1881-82 (Estimate) ...	957	285	1,020	2,262

*The Revenue from
grey goods is fast
disappearing* —

208. If we look at the figures month by month since April 1879, the results are still more remarkable. The monthly value of the duty-free grey piece-goods has risen from 5 to 82 per cent. (in January 1882) of the total imports of those goods, whilst the value of the dutiable grey piece-goods has declined in a similar proportion,—i.e., from 95 per cent. to 18 per cent. In shirtings only the duty-free percentage in January last was 94 per cent. The character of the trade has, in fact, completely altered. It has adapted itself to the new circumstances, with the result that the Revenue derived from the duty on grey goods is, to use the words of the Bengal Chamber of Commerce, "dying a natural death."

*Administrative in-
convenience of the
present Tariff* —

209. There can be no question that, whether from the point of view of administrative convenience or from that of fiscal principle, the actual condition of affairs is open to grave objections. As regards administrative inconvenience, I will not lengthen this Statement by entering into the detail of the numerous complaints which are from time to time addressed to the Financial Department by those interested in the cotton trade, nor of the difficulties experienced by the Custom House officers in giving effect to the present law. I will only remark in general terms that the difficulty of distinguishing between dutiable and duty-free goods is very great. Honest traders are exposed to loss and inconvenience from no fault of their own. A small portion of yarn which is dutiable is occasionally mixed up in the same piece with that which is duty-free. This may happen not only without the cognisance of the importer, who must rely upon the invoice he receives from Manchester, but even without the knowledge of the manufacturer himself. It is difficult in such cases to say whether the apparent intention to evade the duties is fraudulent or accidental. Thus a constant battle is being waged between the importers and the Custom House officers. An attempt has, indeed, been made to frame regulations which shall obviate this state of things. Such regulations are, however, but the most feeble palliatives, and cannot attain the desired object. So long as the existing distinction is maintained, the minute inspection and consequent delays necessary to prevent a practice of evading the duty from springing up, must always be inconvenient to the trade, however considerate the Customs officials may be.

*Objections of prin-
ciple to present
Tariff* —

210. Next, it is to be observed that, though direct protection to local manufacture no longer exists, the immediate effect of the partial repeal of the cotton duties has been to protect one class of Manchester grey goods against another, the line drawn being an arbitrary one. The manufacture and trade in grey goods for India has, in fact, been forced artificially in one direction by the Customs impost. A very remarkable instance of the effect of the present system is given in a memorial from Messrs. Leech & Sons, which was recently addressed to the Government of India. Messrs. Leech & Sons are Lancashire manufacturers, whose Calcutta agents are Messrs. Kettlewell, Bullen & Co. They set forth that, ever since the year 1834, they have supplied certain grey shirtings to the Indian market marked with a stamp in which they have a proprietary right. These grey shirtings are made of yarns averaging No. 32s,—that is to say, they come just within the dutiable category, which comprises all yarns above 30s. Other manufacturers have been able to produce a different class of goods, and so adapt themselves to the altered condition of the trade. Messrs. Leech, however, are unwilling to adopt a similar course. They are in this dilemma: either they will be driven out of the market by competition with duty-free cloths, or they must change their machinery, which will involve a heavy outlay of capital and a considerable risk of losing the position which they, by their own exertions, have acquired in the trade. The result of this anomalous state of things is that, during the last four months of the year 1880, Messrs. Leech paid no less than 36 per cent. of the total duty collected at the Port of Calcutta on grey goods.

*Manchester is pro-
tected against
India* —

211. This, however, is by no means the only anomaly which exists under the present Tariff. Not only is one class of Manchester goods protected against others, but, to some extent, English goods are protected against those manufactured in India. In April 1879 the Calcutta authorities represented that large classes of coarse grey piece-goods were distinguished or decorated by a narrow border, coloured or white, and made of yarn finer than 30s, and that unless this trivial want of uniformity were condoned, they would be deprived of the exemption intended for them. Borders not exceeding 1½ inches in width were

consequently allowed to pass free. Soon afterwards the Bombay authorities asked for a similar favor on behalf of the $4\frac{1}{2}$ -inch borders, which are in chief use among the colour-loving population of Western India. The application was granted. The result is that, while imported goods may pass free though containing coloured (or white) borders of fine yarn aggregating over six per cent. the piece, the Indian mills have had to make their borders of yarn paying duty. The disadvantage to them was, perhaps, not very heavy, but it has helped to induce them to begin to dye and double the yarn made by themselves. The Bombay Commissioner of Customs in a recent report stated that "yarn dyed and doubled in Bombay is now sold at prices as good as, or better than, those realised by imported yarn of similar quality. The duty is saved, and if the experiment is found profitable, the industry will extend."

212. The defects in the present Tariff which I have so far indicated apply mainly to grey goods only. They could, for the most part, be rectified by the abolition of the duty on those goods. I do not know, however, on what principle the taxation of white and coloured goods can be justified if grey goods are exempted from duty. On this point I invite attention to the following observations of the Bengal Chamber of Commerce. In a letter dated 17th January 1880, the Committee of the Chamber says:—

Injustice of taxing white and coloured goods.

"Another anomaly is that white and coloured goods made of 30s yarn or under, and coloured yarns of 30s and under, are not admitted free like grey cloths and grey yarns. The intention which Government had in view, in taking its first steps towards the reduction of these duties, was no doubt to remove the protection which our local mills were supposed to enjoy, and it was not thought that their production could possibly compete with anything but certain grey goods. There is no doubt, however, that the Natives do largely bleach and dye goods and yarns for themselves all over the country; and it therefore comes about that importers, who devote themselves more exclusively to white and coloured goods, are handicapped to the extent of the duty. There is no apparent reason why an importer should not be allowed to bleach or dye a piece of grey shirting made of 30s yarn, or under, if he chooses to do so, because there is no duty on colour *per se*. The duty on dyed yarn, for instance, is charged only upon the grey weight and not upon the dyed weight. What practical difference, therefore, can there be to the customs whether 30s yarn is dyed or not, and *pari passu* what difference can be drawn in such a case between yarn and goods made of such yarn, whether grey, coloured, or bleached?"

"The Committee submit that there are strong and weighty reasons why what appears to them a substantial grievance should be removed. It is seen how the trade in duty-free grey goods and yarns has developed, and it seems only right and fair that merchants who devote themselves to the importation of white and coloured goods should be put in a position to extend their efforts in similar lines. It can be shown that even now many important classes of goods under these denominations could be imported made of duty-free yarns, and there is no reasonable doubt that the variety could be largely extended were the duty removed."

213. I now turn from the cotton duties to a consideration of the general import duties. The Calcutta Trades Association in March 1879, and again recently, urged with much force the many anomalies in the existing system under which these duties are levied. In a letter of February 10th, 1882, the Association characterises the duties as "protective, capricious, and opposed to economic principles," and adds that "while harassing to the importer, they yield a Revenue so insignificant as hardly to cover the cost of collection when the larger sources of Revenue (*i.e.*, the Cotton Duties) are removed."

The General Import Duties.

214. The Tariff of 1875 was complete in itself for the purposes for which it was designed, but the practical declaration on March 18th, 1878, that a duty was indefensible if it either was *at all* protective or did not yield a sum absolutely as well as relatively large, introduced two disruptive forces into a machine not constructed to meet them, and necessarily shattered it.

215. The effect of applying the protective objection is well illustrated by the following extract from the speech of Sir William Muir (then Financial Member of Council) on the Tariff Bill, when before the Legislative Council on August 5th, 1875. "If Honourable Members," he said, "will cast their eye down the 'import schedule, they will find hardly any article which, in consequence of 'the vast area and varying conditions of our soil and climate, cannot be more 'or less produced in some part of our dominions.' Apparel of many kinds, hardware, jewellery, innumerable manufactures of metal, provisions and stores of many kinds, spices, sugar, tea, tobacco, with raw silk and fabrics of silk and wool, are all made in India, some to a large extent, and every import duty on them is protective. On what principle, again, are silk and woollen goods, or goods having cotton mixed with silk or wool, to be denied the exemption accorded

The duties are protective.

to cotton goods? "The duty on *Woollen Fabrics*," the Calcutta Trades Association rightly argues, "must, if only for the sake of consistency, follow the cotton duties."

And yield only a small Revenue.

216. The effect of applying to individual dutiable items the objection of small receipts is equally destructive. Under the Tariff before 1878, the heads fitted into each other, so that articles of the same general nature were taxed under one designation or another, and disputes were avoided. But the exemption of twenty-seven main heads on March 18th, 1878, introduced endless confusion and inconsistency, since certain heads were freed which were really parts of, or connected with, others left dutiable. Thus, the freed head of "Chemical products and preparations" overlaps the dutiable one of "Drugs and Medicines." "Seeds" are in some cases also "Spices," "Drugs," or "Provisions," while both "Oils" and "Fruits" overlap "Provisions," the first-named articles in each case being alone exempt. "Oils" also overlap "Drugs" and "Perfumery." A carriage may be imported duty-free, but all the principal materials for building one in India are dutiable. The glass panels of a sideboard and the plates of a mirror are dutiable as "Glass," but the woodwork of the one and the gilt frame of the other are exempt as "Furniture." Manufactures of leather are free, but a leather portmanteau is dutiable because it is fitted with a metal lock. Spades are classed as agricultural implements and are thus exempted from duty, but shovels are dutiable. A garden engine is free, but a syringe, used for exactly the same purpose, is dutiable. Again, there are many heads still dutiable which seem to have just as good claims to exemption, whether in respect of yielding little duty, or on their own merits, as those which were exempted in 1878. Stationery, for instance, paid only £5,350 in 1880-81, of which the chief part came from schoolboys' slates. In the same year shells and cowries paid £1,102, corks £1,600, gums £3,237, and paints £8,810.

Raw material is taxed.

217. Another objection to some of these duties is, that the raw materials of industry and articles contributing to production are taxed. Dyes, ivory, paints, colours and painters' materials, and, above all, unwrought metals, are illustrations of this objection.

Further practical objections.

218. Nor are these the only objections to the existing Tariff. Many practical difficulties arise in giving effect to the law as it now stands. Of these difficulties I may mention a few examples.

Import of articles by post.

219. *First*, comes that of dealing with dutiable articles imported by letter post. There is no agency, except in the Presidency towns, by which the duty can be fixed and levied on the contents of letters; but the Calcutta Trades Association reasonably objects to the levy of duty at the Presidency towns alone. The objection might be mostly got over by exempting jewellery from duty, but it has no better claim to exemption than a dozen other articles.

Special claims for exemption.

220. *Secondly*, come the special claims for exemption in individual cases, such as organs and painted windows for churches, mess necessaries, volunteer uniforms, gas and water pipes, and many other articles. There are always a dozen reasons, and occasionally some pressure, in favor of these exemptions, and any general rule can hardly be maintained.

Difficulties of definition.

221. *Thirdly*, difficulties of definition are great, and lead to much minor injustice. The Financial Department had not long ago to issue elaborate orders explaining to Customs officers the difference between machines and machinery.

Interference with trade, &c.

222. To sum up this branch of the subject, I submit that the General Import Duties, which are still levied on thirty-one main heads, comprising many hundreds of items, not only are open to the numerous economic and practical objections which I have already enumerated, but also cause an amount of friction, scrutiny, and interference with trade quite incommensurate with the net Revenue they produce.

General Import Duties open to great objections.

223. The arguments in favor of abolishing the General Import Duties are even stronger than those which may be adduced in respect to the abolition of the Cotton Duties. The maintenance of the former, if the latter are to be abolished, would, from every point of view, be open to great objection.

224. Whether, therefore, we look to the Cotton Duties or to the General Import Duties, it is clear that it is undesirable to maintain the present Tariff.

225. Various methods have from time to time been suggested to remedy the anomalies of the existing system. It has been proposed to levy a low and uniform rate of duty on all cotton goods, to excise Indian cotton, or to impose a low registration fee on all imports and exports. I need not discuss the merits and demerits of these proposals, for we are fortunately in a position to adopt a more thorough and satisfactory remedy.

Proposals to remedy existing defects.

226. A good deal of the controversy which has arisen on the subject of Customs reform in India, appears to be due to the fact that it has generally been assumed—and I admit that the assumption has until quite recently not been at all unreasonable—that the whole or partial repeal of the Customs Duties must of necessity be accompanied by the imposition of fresh taxation—probably direct taxation—which would be more unpopular than the present method of raising Revenue by the levy of duties on imported goods. I am not called upon to discuss the relative merits and demerits of direct and indirect taxation, either in general or in respect to the particular form of taxation which under present circumstances is most suitable to India. The question is one which for many years past has divided Indian financiers and administrators into two opposite schools, and high authorities may be quoted on either side of the controversy. The substitution of a direct for an indirect tax is, however, not now under discussion. The issue the Government has had to decide is wholly different. That issue I may formulate in the following words: The ordinary Revenue of India exceeds the ordinary Expenditure. A remission of taxation is therefore possible. What form should that remission take?

Real question to be decided by Government.

227. After a full consideration of the various alternatives which might be adopted, the Government is of opinion that the form which a remission of taxation may most beneficially assume is the abolition of the whole of the Cotton Duties and of the General Import Duties. The Special Duties—namely, those on wine, beer, spirits and liqueurs—will remain; so also will the duty on arms and ammunition, salt and opium. With these exceptions, we propose that no import duties of any kind shall in the future be levied.

Abolition of Cotton and General Import Duties.

228. I have said that the adoption of this measure is possible without the imposition of any fresh taxes. It remains for me to adduce arithmetical proof in support of this position.

229. The loss of Revenue involved in the Customs reforms now proposed is estimated as follows:—

Loss of Revenue from abolition of Import Duties.

	£
Cotton Duties	655,000
General Import Duties	564,000
Total gross loss	1,219,000
Deduct—	£
Refunds	35,000
Saving in Establishments	75,000
	110,000
Total net loss	1,109,000

230. Supposing no change to be made during the coming year in the Salt or Customs Duties, and that the net Opium Revenue were estimated, as during the year 1881-82, at £6,500,000 net, there would remain a surplus of £2,105,000. This is £997,000 in excess of the loss which will be involved in the proposed Customs reforms. I state the case in this form as I wish to draw attention to the fact that, in taking off the Customs Duties, we are not increasing our reliance on Opium. We could take off those duties if we maintained the relatively low Opium estimate of £6,500,000 net. The case of Salt is different. In reducing the Salt Duty we do, to the extent of £750,000, increase our reliance on Opium.

The loss is much less than the surplus of 1882-83, supposing no changes to be made in Salt or Opium.

231. It is, of course, desirable to estimate for a moderate surplus. But to keep on taxes in order to secure too large a surplus is unjustifiable and opposed to sound financial principles. It is to be borne in mind that the surplus both of the current and of the coming year represents the excess of

The saving in 1882-83 will not be so much as £75,000, by reason of the cost incurred in giving gratuities on discharge, &c.

Revenue over Expenditure after providing £1,500,000 annually as an Insurance against Famine, of which sum £750,000 is applied to the Reduction of Debt.

General observations.

232. Before leaving this subject I may perhaps be permitted to express a hope that the solution which the Government now offers of this difficult and important problem will be accepted by this Council and by the public opinion of India and England as satisfactory, and that it will finally set at rest the angry controversy which has for some years been waged. That controversy has unfortunately taken a form which no true friend of England or of India can view without regret. It has been represented—erroneously, as I venture to think—that in respect to the question now under discussion there is an antagonism of interests between the two countries.

233. I am not now concerned to go into the whole of the past history of this question, or to discuss whether, viewed by the light of subsequent events, the particular measures which have at each step been adopted to attain the desired end were the best of which the circumstances admitted. This much, however, I will say. As an incident of her connection with England, India has a right to profit from English experience and English economic history. That experience and that history show that by the adoption of Free Trade, a country benefits, indeed, all the world, but more specially benefits itself. It may perhaps be urged that the fiscal conditions of England and India are so different that no analogy can be instituted between the two countries. For the purposes of the present discussion I believe this argument to be unsound. The wealth of India, like that of other countries, is in proportion, not only to its natural resources, but to the degree of liberty it may possess in the use of those resources. By the adoption of the measures now proposed, India will be more free to exchange her exportable produce for the products of foreign lands than would be possible were the import duties maintained. The desirability of removing, so far as is possible, all checks on the Indian import trade was pointed out by Sir Charles Trevelyan so long ago as 1864 in the following words: "Our object," he said, "should be "to remove, as far as possible, every obstruction to the freedom of trade, as was "done in the analogous case at home. The great embarrassment of the trade "of India has always been the want of imports to meet the vast quantity of "exportable produce which the country is capable of sending forth. If we "desire to relieve the trade of India, and to give free scope to its further "extension, we should give all possible encouragement to her imports."

The reform will contribute to the extension of the railway system.

234. In addition to these general arguments, which would readily admit of further development, there is one consideration which applies specially to India, and which, I venture to think, is at the present moment of considerable importance. The desirability of rapidly extending our railway system is universally recognised. The main obstacle to any such rapid extension is the difficulty of attracting railway capital to India on terms which shall not be too onerous to the State. No fiscal measure of general application would be so likely to give a stimulus to railway construction as the removal of all restrictions on trade.

And will be most beneficial to India.

235. I am, indeed, very far from saying that a free-trade policy should be carried out at all hazards. "There is not," Mr. Gladstone once said,* "a free-trade Government in this or any country which has "not freely admitted that the state of the Revenue is "an essential element in the consideration of the application even of the best "principles of free trade." The question is essentially one of Revenue. Objectionable as is the present condition of the Tariff, we should be obliged, were our general financial position less favorable than it is, to bear for a time with some, at least, of the existing evils. But, under present circumstances, there is no necessity for withholding from India any longer the full advantages of free trade. The Government, therefore, brings forward these proposals in the firm belief that their adoption will be of the utmost benefit to India, and with the knowledge that, under present circumstances, they will be unaccompanied by any counterbalancing disadvantages.

236. We propose to take the present opportunity for introducing two minor reforms into the Tariff.

Minor Tariff reforms.

237. Methylated spirit at present pays a duty of 10 per cent. It is used to make varnish and ether; also to preserve specimens in museums. We propose,

Methylated spirit.

at the instance of the Bombay Chamber of Commerce, to reduce the rate of duty to 5 per cent. An analogous reduction will be made in the Excise duty. The loss to the Revenue will be trifling—about £250 a year.

238. Under the existing law, Perfumed Spirits imported in bottles not containing more than half a pint pay a 5 per cent. *ad valorem* duty. It has been pointed out by the Bombay and Bengal Governments that large quantities of Eau-de-Cologne are imported and used as potable spirit. The law is thus evaded and the Revenue from Excise suffers. In consequence of the abolition of the General Import Duties, "Perfumery" will no longer be taxed, but we propose that Perfumed Spirit imported in wood or in bottles containing more than 4 ozs. (rather less than a quarter of a pint) should be taxed as "Spirit" at the rate of Rs. 4 the imperial gallon, with an increasing duty in proportion as the strength of the spirit exceeds London proof. *Perfumed Spirits.*

XII.—The License Tax.

239. The last point, involving any question of fiscal principle with which I have to deal is the License Tax. The main question which the Government has had to decide in connection with this subject is whether, a remission of taxation being possible, the License Tax should be abolished in preference to other taxes. *The License Tax.*

240. In the autumn of 1880, His Excellency the Viceroy addressed a confidential circular to the heads of the several local Administrations with a view to obtaining their opinions as to the desirability of maintaining the present License Tax. The Governor of Madras (the Duke of Buckingham) and his colleagues were of opinion that the tax, though suitable for Municipal purposes, was objectionable as an Imperial resource owing to the defective nature of the staff available in the rural districts for its assessment and collection. The Government of Bombay preferred another form of direct taxation to the License Tax. *Opinions of Local Governments.*

With these exceptions there was unanimity of opinion on the following points:—

(1) That the doubt and uncertainty produced in the minds of the people by frequent changes in the modes of taxation were greater evils than the taxes themselves, and that, therefore, any hasty change was much to be deprecated.

(2) That any objections which originally existed on account of the pressure of the License Tax on the poorer classes had been met by raising the minimum assessable income to Rs. 500.

(3) That the people were becoming accustomed to the tax, and that the method of its assessment and collection had been much improved.

241. The License Tax at present yields an annual net Revenue of about £524,000. This sum is paid by 228,147 persons.*

* Madras ...	...	29,017
Bombay ...	...	52,973
Bengal ...	...	68,179
N.-W. Provinces and	...	
Oudh ...	...	49,515
Punjab ...	...	28,733
Total ...	...	228,147

sons.* The justice of imposing some tax upon the trading classes of the community cannot be questioned. The Bengal Chamber of Commerce, in a letter addressed quite recently (February 21st) to the Government of India, said, while speaking in condemnatory terms of the incidence of the present License Tax, that "they are alive to

Justice of direct taxation.

"the difficulty of bringing by any other means a large body of Her Majesty's subjects under contribution to the expenditure of the State in any proportion approximate to the advantages they derive from such expenditure." The fact that those classes, who perhaps more than any others have benefited by British rule in India, pay so little, has long been recognised as a blot upon the Indian fiscal system.

242. That there are some practical objections to direct taxation generally, and that those objections apply in India as elsewhere, and even somewhat more in India than elsewhere, may be readily admitted. The question which the Government has had to decide is the degree of urgency to be attached to those objections. *There are some practical objections.*

*Decision not to
abolish the License
Tax.*

243. The repeal of the License Tax would relieve the small number of people who now pay it and would do little more. The mass of the tax-payers would obtain no relief. The general financial situation would in no way be strengthened. On the other hand, by the abolition of the import duties, and by the reduction of the duty on salt, relief will be afforded to the whole country, a stimulus will be given to trade, the general financial situation will be much strengthened, and it may reasonably be expected that in course of time the actual loss to the Treasury will be to some extent recouped by increased railway receipts and increased consumption of salt. There can, I venture to think, be no question on which side the balance of advantage lies. Under these circumstances the Government has decided not now to propose the abolition of the License Tax.

*Is the present
system to remain
in force?*

244. If, however, the License Tax is not to be abolished, the question remains for consideration whether an immediate attempt should be made to remedy the defects which, it is admitted, exist in the present Acts regulating its assessment and collection.

*Defects of present
License Tax
recognised.*

245. The difficulty of making practice agree with sound theory in the administration of any system of direct taxation is well known, but the inconsistencies and defects of the License Tax Acts, which at present apply to the several Provinces of India, are glaring, and many of them are unquestionably quite remediable. Thus, excepting in the Madras Presidency, a summary License Tax is levied throughout the greater part of India. In Madras the tax approaches, in some respects, nearest to an Income Tax. Again, everywhere, excepting in the Bombay Presidency, the maximum fee leviable is Rs. 500. In Bombay it is Rs. 200. In Northern India there are two classes, sub-divided into eight grades. In Bengal there are six classes. In Madras there are eight classes. In Bombay there are eleven classes. In British Burma and Assam the tax is not levied at all. Some of these inconsistencies are difficult to defend. For instance, there can be no sort of reason why a rich trader in Bombay should not pay as much as another in a similar situation at Agra or Delhi. In fact, whatever opinions may be held in respect to direct taxation generally in India, there can be no doubt that the present License Tax is open to serious objections. Not only are there great inequalities in its incidence in various Provinces, but also it is open to the very great objections that, in respect to those classes who are taxed, it falls with disproportionate hardship on the less wealthy, and, further, that other classes, who might with justice be called upon to pay the tax, are altogether exempted.

*No immediate
change proposed.*

246. It is clear, therefore, that the License Tax in its present form cannot be incorporated into the permanent fiscal system of the country. Whilst, however, fully recognising the validity of the objections which may be urged against the tax as it now exists, we do not propose that any changes should be made at present.

*Desirability of
finality in dealing
with this question*

247. It is exceedingly desirable that any changes that are made should be final. The frequent changes in the personnel of the Indian Government have exercised a very baneful effect upon the manner in which the question of direct taxation has been treated. Fixity of policy has been conspicuous by its absence. In the last 22 years no less than 23 Acts of the Legislature have been passed, in which successive Governments have either rung the changes on the various expedients for imposing direct taxes, or have for the time being adopted a policy opposed to any direct taxation whatsoever. It was impossible under such a procedure that any system of direct taxation should take root in the country. It was certain that these frequent changes would keep alive rather than allay the unpopularity originally attendant on the imposition of any direct tax. The practical result of the system which has been followed has been that the fundamental principle, that the tax which each individual is bound to pay ought to be certain and not arbitrary, has been violated. Frequent changes have rendered it difficult for the tax-payers to ascertain the true amount due from them, and have facilitated arbitrary and illegal exactions on the part of the tax-gatherers.

248. After full consideration, therefore, we are of opinion that it will be desirable to continue to levy the License Tax in its present form, objectionable though it be, at all events until the experience of another year has enabled us to judge more thoroughly than is at present possible of the policy which should in the future be adopted in respect to this Tax.

219. The Indian fiscal system may now be said to be in a state of transition, and, if we were to make any change now, we could feel no assurance that some further change might not be required in connection with the financial arrangements of 1883-84. The special features in connection with the actual financial position which render it desirable to postpone the further consideration of this question are:—

Special reasons for postponing change of system.

- (i) That the economy which may result from our proposals in connection with military re-organisation is as yet uncertain.
- (ii) That the proposed Customs reforms and the reduction of the Salt Duty will certainly increase the Railway receipts, but to what extent it is impossible to foresee.
- (iii) That increased consumption will partially recoup us the loss consequent on the reduction of the Salt Duty, but to what extent is uncertain.
- (iv) That during the year 1882-83 we have to provide a sum of £223,000 in order to complete the Frontier Railways, a charge which will not recur.
- (v) That, for the reasons I have already given, we cannot count with certainty on being able to take so high an Opium Estimate in the future as that which we propose for 1882-83.
- (vi) That it is within the range of possibility that we may be in a better position a year hence to judge of the future of silver than is at present possible.

250. Although, however, the consideration of the question is postponed, I may at once say that the Government does not contemplate the imposition of any new general direct tax payable by all classes of the community. There are good reasons for supposing that during the last decade there has been, generally speaking, a considerable advance in the trade-wealth of the country, whilst the improvement in the position of the agricultural classes has been proportionately less rapid, at all events in some Provinces. The agricultural classes in most parts of the country are already sufficiently taxed. Whilst we consider that an amendment of the present system of direct taxation, so as to embrace in a more equitable manner all classes of the non-agricultural community, is not only open to no valid objections, but would, if it should become necessary, be just in itself, we should be opposed to the imposition of any direct tax which would add to the amount already contributed by the agricultural classes in the form of Land Revenue or Provincial Rates anything in excess of their fair share of the public burdens. So long as the agricultural classes contribute their fair share of the public burdens in either of these forms, we should not consider it necessary that they should be embraced in any system of direct taxation to which the non-agricultural community might be subject.

No new general tax will be imposed.

251. In order to prevent any future misapprehension, it may be desirable to sum up in a few words the attitude of the Government in respect to the License Tax. It is as follows. We recognise the evils of the present Tax. We recognise that in its present form it cannot be incorporated into the permanent fiscal system of the country. Beyond this we do not at present go. We reserve to ourselves complete liberty of action in the future, either to propose the abolition of the License Tax, to recast it, or even, should such a course appear desirable when the financial arrangements for the year 1883-84 come under consideration, to allow it to continue in existence in its present form for a while longer.

Summary of attitude of Government in respect to this question.

XIII.—Budget Estimates, 1882-83.

252. The Budget Estimates for the coming year have been framed on the assumption that effect will be given to the various reforms to which I have alluded. They give the following results:—

Budget Estimates, 1882-83.

					£
Revenue	...	..	..	...	66,459,000
Expenditure	.	...	...	...	66,174,000
				Surplus	285,000

Observations on the surplus.

253. It has been laid down by successive Governments that, after providing for all ordinary expenditure, the Indian Budget should show a surplus of £500,000 to meet any unforeseen charges that may arise in the course of the year. The surplus which is at present anticipated during the year 1882-83 falls short of that sum by £215,000. The Estimates have been very carefully framed. Ample provision has been made for all expenditure that can now be foreseen. The net Opium Revenue has been taken at £588,000 less than the Regular Estimate for 1881-82, and at £1,201,000 less than the actual receipts of 1880-81. The net Railway receipts are taken at £468,000 less than the Regular Estimate for 1881-82.¹ A very moderate allowance has been made for increased consumption of salt consequent on the large reduction of duty. A reference to the columns in Appendix II, in which the Budget Estimates for the coming year are compared with the Regular Estimates of the current year, will show that in most cases allowance has been made for a decrease of Revenue and for an increase of Expenditure.² At the same time it is to be borne in mind that the Opium trade is at present in a somewhat unsettled state. It is not at all impossible that even our present moderate estimate for Opium (£7,250,000 net) may prove too high. Again, a bad harvest in India, or a partial cessation in the demand for wheat or other Indian produce in Europe, may produce a heavy falling-off in the traffic receipts of Railways and at the same time depreciate Exchange. High prices would also influence the Military and other Estimates. The instability of the value of silver is a permanent source of danger to the Indian Revenue. The consumption of salt may increase even less than is now anticipated. These, and other points, have all to be taken into consideration. There must always be some uncertainty as to the ultimate effect of such important reforms as those which are now proposed. Those reforms are, however, so desirable in themselves that we consider that the Estimates for the coming year may justifiably be based on a surplus of only £285,000. Further, it is to be borne in mind—and this is a consideration of great importance—that we already have in hand the surplus of the current year (£1,577,000), which amounts to more than three times the normal surplus (£500,000) for which it is, generally speaking, considered desirable to make provision.

Military Expenditure.

254. In the last Financial Statement (para. 104) I alluded to the fact that a Commission composed of high authorities had pronounced the possibility of reducing the cost of the Army, and I expressed an opinion that, when once we were free from Afghan complications, the question of reducing Military Expenditure was of all others that which most seriously demanded the attention of Government.

Subject of Military reductions has been considered.

255. This important subject has been fully considered by the Government during the course of the year, and although it has been deemed impossible to accept the proposals of the Commission in their entirety, at the same time the highest Military authorities in India are of opinion that the cost of the Army can be materially reduced without the Military strength of the Empire being impaired; indeed, that certain measures of re-organisation would not only prove economical but would also improve the efficiency of the Army.

Military Estimates for 1882-83.

256. The whole Military system has been carefully reviewed, and the proposals of the Government of India are now before the Secretary of State. I will not, however, dwell on this subject any further as, in the course of the debate on the Bills which I am about to introduce, my Honourable Colleague in charge of the Military Department proposes to deal fully with it. The Budget Estimates for the year 1882-83 provide for a net Military Expenditure of £15,269,000, being less than the ordinary net expenditure of any year since 1876-77.

XXIX & 36. Exchange.

257. *Loss by Exchange* has been taken at £2,775,000 net, being £519,000 less than the Regular Estimate for the current year. The requirements of the Home Treasury during the course of the coming year are estimated at

¹ Part of this difference appears under *XXIX & 32. Railways*. Part is included in *1. Interest on Debt*.

² There is a decrease of expenditure in 1882-83 of £1,292,000, but this decrease appears almost entirely under the head of *Army Expenditure*. In the first place, the *Army Expenditure* is taken at £2,602,000 less than in 1881-82. This large difference is, of course, mainly due to the provision made in 1881-82 for War Expenditure. In the second place, there is a decrease of £529,000 under the head of *Loss by Exchange*. This is due to the requirement of the Home Treasury being about £1,500,000 less in 1882-83 than in 1881-82.

£15,592,000 (true sterling). Of this amount, £250,000 will be received from Her Majesty's Government at home in consideration of the Indian Government supplying the Hong-Kong Military Treasure Chest. The remainder, *viz.*, £15,342,000 is the estimate of the amount of Council Bills to be drawn. The rate of exchange has been taken at 1s. 8d.

XIV.—Issue of Stock Notes.

258. Before I proceed to discuss the Estimate of Ways and Means for the year, it will be desirable to allude to a recent decision of the Government which bears upon this important question.

Issue of Stock
Notes.

259. The value of the net imports of gold into India from 1860-61 to 1880-81, inclusive, was £78,308,300; and of silver, during the same period, £151,478,300. It cannot be doubted that a considerable portion of this large amount is hoarded, either in the shape of coin or ornaments. Nothing, indeed, is more remarkable in India, than the contrast between the large quantities of the precious metals which are imported annually, and the small amount of floating capital which is available for purposes of temporary accommodation in the market.

Imports
of Treasure.

260. The question of whether it would not be possible to devise some means for borrowing from *bond fide* local investors the amount we require annually for Productive Public Works, has for long occupied the attention of the Government. The advantages to be derived from any such scheme, supposing it to be practicable, are obvious. In the first place, we diminish the amount of the remittances to England, which have to be made either in the form of Secretary of State's bills or commercial bills when the holders of sterling or rupee securities are resident out of India. In the second place, we encourage thrift and the accumulation of capital, and afford a safe investment to the poorer classes. In the third place, we give to a certain number of people a direct interest in the stability of the Government.

Advantages of
attracting petty
investments

261. In 1879 a scheme based on a consideration of the American "Refunding Certificates" and of the system of French "Rentés" was laid before the Government of India by Mr. Hope. In August 1880 the Secretary of State drew the attention of the Government of India to the subject in the following terms: "I concur in the opinion that, desirable as is the object of obtaining subscriptions to loans in small amounts from the residents in the country, it would not be wise to attempt to accomplish that purpose by any measure distasteful to the large holders of your securities. The experience of other countries, especially France, shows, however, that a very large amount of money may be obtained in small sums from the Natives of the country, if facilities for their investment are afforded, and I request Your Excellency will carefully consider whether any such scheme can be applied to the circumstances of India without being open to the objections pointed out by your Government."

Mr Hope's scheme

262. We have accordingly reconsidered this important question. The opinions, both official and unofficial, which were collected in 1879, show that the principles involved meet with almost unanimous approval. Doubts, however, were expressed as to whether a rate of interest not exceeding 4 per cent. was sufficiently high to attract small investors in India. My own view of the question coincides with that set forth in the *Bombay Gazette* of November 12th, 1879, in the following terms—"In this particular matter the best kind of 'ventilation' will be that of a practical experiment. No one can say positively whether the plan will succeed or not, until it is tried; while to try it would not cost much either in money or in trouble. The idea is pretty generally accepted as a good one, if it will work; but whether it will work or not can only be ascertained after a period of probation. After that, should the plan not prove successful, then no harm would have been done, and only the expense of printing a few Government Resolutions, together with the supply of the Notes themselves, will have been incurred." We propose, therefore, to try the experiment.

Scheme worth try-
ing.

263. The difficulty indicated by the Secretary of State, namely, that nothing should be done to depreciate our ordinary stock, has, we hope, been obviated by providing that the new "Stock Notes," as they will be called, shall be issued in denominations of small amount, that the interest shall be payable yearly instead of half-yearly, and that the Notes will be non-*enfaceable*

to Europe. For the rest, the details of the scheme, into which I need not enter as they are fully explained in the Government Resolution attached to this Statement—(see Appendix B), have been framed with a view to making this new form of investment as attractive as possible to small local investors.

264. It is not improbable that the Stock Notes will compete with the Savings Banks deposits. But if they do so, no harm will have been done; for, for all purposes of encouraging thrift and the accumulation of capital amongst the people, they will answer the same purposes as the Savings Banks, whilst, from the Government point of view, Stock Notes will be a more convenient form of investment than the Savings Banks, inasmuch, as in the former case, the capital will not be redeemable for at least 20 years, whilst in the latter case it is payable at call. It is thought that the obligation not to discharge the Notes for at least 20 years will be appreciated by investors, more especially as in consequence of the adoption of this course, the rate of interest can legitimately be fixed slightly ($\frac{1}{4}$ per cent.) above that which is given for Savings Banks deposits.

XV.—Ways and Means.

Ways and
Means, 1882.
Closing balance,
1881-82.

265. I now proceed to state the Estimate of *Ways and Means* for the coming year.

Closing balance,
1882-83.

266. Last March it was estimated that the year 1881-82 would close with a balance of £10,000,000. It is now estimated that the closing balance of the year will be £14,200,000.

Minimum balance
in autumn
months.

267. We estimate that the balance on March 31st, 1883, will be £10,848,000. This estimate provides for a capital expenditure during the year of £2,765,000 on *Productive Public Works* and of £485,000 on the East Indian Railway.

268. In deciding whether a loan is necessary to meet this Capital Expenditure, which, I need hardly say, stands outside the ordinary Account, the important point to consider is, not so much the estimated closing cash balance on March 31st, 1883, as the minimum balance during the months of October, November, and December. During these months the balances are always lower than at any other period of the year. It is, of course, economical to work with as low a cash balance as possible, but in view of the limited extent to which temporary accommodation can be obtained in the Indian market, it is not at all desirable to let the Government cash balance sink too low. The business of the country can be carried on with a cash balance of £8,000,000, but it is not desirable that the balance should be allowed to sink below £8,500,000. A closing cash balance of £10,848,000 would correspond with a balance of about £7,400,000 in the month of November. According to this estimate, therefore, the balances would require strengthening during the year to the extent of £1,000,000 to £1,500,000.

Special points to
be considered.

269. On the other hand, the following points have to be taken into consideration.

In the first place, the Estimates of Revenue and Expenditure are cautious. Unless anything unforeseen occurs, the results will probably show an improvement over the Estimates.

In the second place, the creation of the Post Office Savings Banks will probably strengthen the balances to a greater extent than £80,000, for which sum only credit has on this account been taken.¹

In the third place, the issue of Stock Notes will contribute a certain addition to the balances of the year. No credit has, however, been taken on this account in the present estimate of *Ways and Means*.

In the fourth place, it is not impossible that during the course of the year the Bombay Port Trust may repay to the Government a loan of £760,000. No credit has, however, been taken on this account.

The experience of a few months is necessary in order to enable us to judge of the extent to which these various considerations will affect the Estimate of *Ways and Means* for the year.

¹ Should the new Savings Bank scheme result in a large increase of deposits, it will eventually, in all probability, become necessary either permanently to strengthen the Cash Balance or to adopt some special method for financing these deposits. The whole of this money is, I need hardly say, held at call.

270. It has been usual, in notifying the intentions of Government in respect to borrowing, to speak under reserve. Indeed, of late years a note has always been attached to the Estimate of *Ways and Means* (see Statement VII) to the effect that

"the estimates in this Statement of the amounts to be borrowed and to be supplied to the Home Treasury by Bills are the best that can now be made; but they are subject to modification as the year goes on: the Government must not be understood to pledge itself that the Secretary of State will raise by Bills the exact amount stated; or that the exact amount stated will be borrowed during the year; or that it will be borrowed in India or in England as the case may be."

271. I take the present opportunity of drawing special attention to this reservation. I am fully aware of how desirable it is that the Government should state as distinctly as possible what are its intentions in respect to borrowing. At the same time I must point out that to frame, twelve months in advance, an accurate estimate of the cash necessary to carry on the whole work of Government in India, is at all times a matter of very great difficulty. The difficulty is especially great this year owing, in the first place, to the large fiscal reforms which are about to be introduced, the full effect of which upon several heads of Revenue, notably *Salt* and *Railways*, can only be learnt by experience; and, in the second place, owing to the uncertainty which must for the present prevail as to the extent to which the new Stock Notes will be taken up. All that the Government can do is to place the public fully in possession of the facts of the case as they now stand, and to indicate what is the most probable conclusion that is to be drawn from these facts. I cannot at present go further than to say (1) that it is uncertain whether we shall require any loan or not; (2) that if we have to borrow at all, it is not probable that we shall require more than £1,500,000 at most; and (3) that unless any extraordinary and unforeseen circumstance, such, for instance, as a famine, should arise, it is probable that our requirements will not be greater than could be supplied by the local banks temporarily under arrangements by which they would be repaid before the opening of the export season. But it must be clearly understood that I can at present give no sort of pledge as to the course the Government will ultimately pursue, and that we reserve to ourselves the most complete liberty of action during the year to take whatever steps further experience may show to be necessary.

XVI.—Conclusion.

272. I regret the length to which this Statement has extended. It is difficult, in making an Indian Financial Statement, to draw the line between saying too much and saying too little. The English practice of merely giving the broad features of the finance of the year has many advantages. The objection to applying this method to India is that, if the details are not given in the Financial Statement, they do not come under the consideration of the public at all until the Accounts are finally made up. Last year I endeavoured to make my Statement as short as possible. The result, so far as I could judge from the comments of the Press both in England and India, was that the broad features of the financial position were generally well understood, but that misapprehension prevailed on some points which might, perhaps, have been removed had my Statement been less brief. This year my Statement is necessarily much longer, as the subjects which I have had to treat are of greater importance; but I have endeavoured, so far as is possible, to avoid descending into too great detail. I think it is, on the whole, better to omit explanations on matters of comparatively minor importance than to run the risk of the main issues being obscured amidst a mass of detail. I need, however, hardly add that there is not a single item in the Estimates about which full explanation cannot be given, if the necessity for doing so should arise.

Conclusion.

Length of Statement.

273. It will be desirable, finally, to recapitulate briefly the main facts of the present Financial Statement, to state the issues which call for the decision of this Council, and to indicate the features of the Statement which, although they do not necessitate legislation, are of sufficient importance to demand special attention.

Recapitulation.

274. The main facts are as follows :—

Deficit of 1880-81. (i) The Accounts of the year 1880-81 close with a deficit of £4,044,000. This deficit was wholly due to the expenditure on the war. Excluding the net expenditure on account of the war, there was a surplus of £6,320,000.

Surplus of 1881-82. (ii) We estimate that the year 1881-82 will close with a surplus of £1,577,000 after payment to the Provincial Governments of £670,000 for their Afghan war contribution, and of £280,000 in connection with the renewal of the quinquennial contracts. On the other hand, about £250,000 of the English War contribution has been credited to the year in excess of the War Expenditure, thus abnormally increasing the surplus. But for these extraordinary items of Revenue and Expenditure, the surplus would have been £2,357,000.

Surplus of 1882-83. (iii) We estimate the surplus of the year 1882-83 at £285,000. If no taxes were taken off and the Opium Revenue were taken at £7,250,000 net, the Surplus would be £3,171,000 (see Statement X).

Proposals involving legislation. 275. The proposals now made by the Government which involve legislation, are—

Remission of the Patwari Cess in the N.-W. Provinces. (i) The remission of the Patwari Cess in the North-Western Provinces and the payment by Government of the patwaris in Oudh, who are now paid by the land-owners. This proposal involves a virtual remission of taxation to the extent of £316,000.

Abolition of Import Duties. (ii) The total abolition of the Cotton Duties and the General Import Duties. This involves a remission of taxation to the extent of £1,219,000.

Reduction of Salt Duty. (iii) The reduction of the rate of the duty on salt to Rs. 2 a maund everywhere except in the Trans-Indus districts of the Punjab and in British Burma. This involves a loss of Revenue of about £1,400,000. Legislation is not absolutely required in order to introduce this change, but as the present Salt Act requires some amendments, independently of any change in the rate of duty, we propose to take this opportunity to bring a Bill to effect these amendments under the consideration of the Council.

Other points not involving legislation. 276. The remaining points of special importance which do not involve legislation are—

Subordinate Civil Services. (i) The improvement in the position of the Subordinate Civil Services, which it is estimated will cost about £50,000 a year.

Provincial contracts. (ii) The arrangements in connection with the renewal of the Provincial contracts.

Opium. (iii) The policy of the Government in respect to Opium. The net Revenue from this source has been taken at £7,250,000 in the Estimates for the coming year.

The License Tax. (iv) The attitude of the Government in respect to the License Tax. It is proposed to make no change at present, but we reserve to ourselves complete liberty of action for the future.

Stock Notes. (v) The introduction of a scheme to facilitate borrowing from small local investors by the issue of Stock Notes.

Military Expenditure. 277. To these must be added the steps which have been taken so far to reduce the cost of the Army and to improve its efficiency. As I have already mentioned, my Honourable Colleague, General Wilson, who can speak both with far greater authority and a more intimate knowledge of the subject than any to which I can pretend, will, in the course of the debate, explain fully the actual position of affairs in respect to Military Expenditure.

Conclusion. 278. I commend these measures to the attention of this Council and of the public in the confident belief that they will receive fair and impartial consideration, and in the firm conviction that their adoption will benefit India.

Services rendered by Mr. Hope. 279. I cannot close this Statement without cordially acknowledging the obligations the Government is under to Mr. Hope, the able Secretary in the Financial Department. Mr. Hope's wide economic knowledge, his great experience of every branch of the Indian administration, and the keen interest which he feels in every measure tending to promote the welfare of the people of India, have been invaluable in the consideration of the important measures which have recently been under discussion.

INDIAN TARIFF BILL.

Major the Hon'ble EVELYN BARING then moved for leave to introduce a Bill to amend the law relating to Customs-duties, and for other purposes.

The Hon'ble MR. INGLIS asked if he rightly understood that the Customs Bill, if passed on Friday next, would take effect at once; and secondly, that goods would be dealt with under section 37 of Act VIII of 1878, that is, that goods in bond, and goods afloat, and goods landed but not "entered," would get the benefit of the reduction, but not goods for which, before the passing of the Bill on Friday, a bill of entry had been delivered to the Customs Collector under section 86.

Major the Hon'ble E. BARING in reply said that his hon'ble friend had rightly understood the scope of the Bill in respect to both the questions: the answer to both of them was in the affirmative.

The Motion was put and agreed to.

Major the Hon'ble E. BARING also applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The PRESIDENT declared the Rules suspended.

Major the Hon'ble E. BARING then introduced the Bill.

SALT BILL.

Major the Hon'ble E. BARING also moved for leave to introduce a Bill for regulating the Duty on Salt, and for other purposes.

The Motion was put and agreed to.

Major the Hon'ble E. BARING also applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The PRESIDENT declared the Rules suspended.

Major the Hon'ble E. BARING then introduced the Bill.

N.-W. P. AND OUDH KÁNÚNGOS AND PATWÁRÍS BILL.

Major the Hon'ble E. BARING also moved for leave to introduce a Bill to amend the law relating to Kánúngos and Patwáris in the North-Western Provinces and Oudh.

The Motion was put and agreed to.

Major the Hon'ble E. BARING also applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The PRESIDENT declared the Rules suspended.

Major the Hon'ble E. BARING then introduced the Bill.

The Council adjourned to Friday, the 10th March, 1882.

CALCUTTA;

The 3th March, 1882.

R. J. CROSTHWAITE,

*Offg. Secy. to the Govt. of India,
Legislative Department.*

SCHEDULE II—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—(continued).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Any Magistrate.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.
281	Exhibition of a false light, mark or buoy.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water, in a vessel in such a state as to endanger his life.	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees ...	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.

285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Any Magistrate.
286	So dealing with any explosive substance.	Ditto	...	Ditto	...	Ditto	...	Ditto.	...
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto	...	Ditto	...	Ditto	...	Ditto.	...
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Any Magistrate.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first or second class.
292	Sale, &c., of obscene books, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 months, or fine, or both.	Ditto.

SCHEDULE II—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest with- out warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether com- poundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
293	Having in possession obscene book, &c., for sale or exhibition.	May arrest with- out warrant.	Warrant ...	Bailable ...	Not com- poundable.	Imprisonment of either de- scription for 3 months, or fine, or both.	Presidency Mag- istrate or Magistrate of the first or second class.
294	Obscene songs ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
294A	Keeping a lottery-office ...	Shall not arrest without war- rant.	Summons ...	Ditto ...	Ditto ...	Imprisonment of either de- scription for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees ...	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling any place of worship the object with intent to insult the religion of any class of persons.	May arrest with- out warrant.	Summons ...	Bailable ...	Not com- poundable.	Imprisonment of either de- scription for 2 years, or fine, or both.	Presidency Mag- istrate or Mag- istrate of the first or second class.
296	Causing a disturbance to an assem- bly engaged in religious wor- ship.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either de- scription for 1 year, or fine, or both.	Ditto.

297	Trespassing in place of worship or sepulchre, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	...	Ditto	...	Ditto	...	Ditto
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant	...	Ditto	...	Compoundable.	...	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Of offences affecting Life.

302	Murder ...	...	May arrest without warrant.	...	Not bailable	...	Not compoundable.	Imprisonment for life, or fine, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto	...	Ditto	...	Ditto	...	Death	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention to cause death, &c	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
305	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
306	Causing death by rash or negligent act.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for two years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of offences affecting Life—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.
306	Abetting the commission of suicide.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto	Ditto	Ditto	Ditto	Death, or as above	Ditto.
308	Attempt to commit culpable homicide.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for one year or fine or both.	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug	Ditto	Ditto	Not bailable	Ditto	Transportation for life and fine.	Court of Session.

Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage ...	... Shall not arrest without warrant.	Warrant	... Bailable	... Not com- poundable.	Imprisonment of either de- scription for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child	Ditto	... Ditto	... Ditto	... Ditto	Imprisonment of either de- scription for 7 years and fine.	Ditto.
313	Causing miscarriage without wo- man's consent.	Ditto	... Ditto	... Not bailable	... Ditto	Transportation for life, or im- prisonment of either de- scription for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	... Ditto	... Ditto	... Ditto	Imprisonment of either de- scription for 10 years and fine.	Ditto.
	If act done without woman's consent.	Ditto	... Ditto	... Ditto	... Ditto	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	... Ditto	... Ditto	... Ditto	Imprisonment of either de- scription for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	... Ditto	... Ditto	... Ditto	Imprisonment of either de- scription for 10 years and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent or person hav- ing care of it, with intention of wholly abandoning it.	May arrest with- out warrant.	Ditto	... Bailable	... Ditto	Imprisonment of either de- scription for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret dis- posal of dead body.	Ditto	... Ditto	... Ditto	... Ditto	Imprisonment of either de- scription for 2 years, or fine, or both.	Court of Ses- sion, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).

Of Hurt.

Section.	2 Offence.	3 Whether the police may arrest without or not. warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
323	Voluntarily causing hurt ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest with- out warrant.	Ditto	Ditto	Compoundable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	Not bailable ...	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	Warrant ...	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.

328	Administering stupefying drug with intent to cause hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	...	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine.	...	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 10 years and fine.	...	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	...	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 10 years and fine.	...	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	...	Summons	...	Bailable	...	Compoundable.	...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	...	Any Magistrate.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).

Of Hurt—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of Wrongful Restraint and Wrongful Confinement.

341	Wrongfully restraining any person.	May arrest without warrant.	Summons	Bailable	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
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342	Wrongfully confining any person	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
343	Wrongfully confining for three or more days.	Ditto	...	Ditto	...	Ditto	Not compoundable.	Imprisonment of either description for 2 years and fine.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
345	Keeping any person in wrongful confinement, knowing that a warrant has been issued for his liberation.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	...	Ditto	...	Ditto	...	...	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).
Of Criminal Force and Assault.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Compoundable.	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

358 Assault or use of criminal force on grave and sadler provocation. ... Ditto ... Compoundable Simple imprisonment for 1 month, or fine of 200 rupees, or both. Ditto.

Of Kidnapping, Abduction, Slavery and Forced Labour.

359	Kidnapping	...	May arrest without warrant.	...	Not liable ...	Not com- poundable.	Imprisonment of either description for 7 years and fine.	Count of Session, Presidency Magistrate or Magistrate of the first class.
360	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment for 10 years, and fine.	...
361	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
362	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
363	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
364	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
365	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
367	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
368	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
369	Kidnaping of a subject in India	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.

SCHEDULE II—continued.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(continued).

Of Kidnapping, Abduction, Slavery, and False Imprisonment.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant.	Whether a warrant shall be issued by the magistrate.	Whether bailable.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
371	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Warrant	... Bailable	... Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
372	Habitual dealing in slaves	... May arrest without warrant.	Ditto	... Not bailable	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
373	Selling or letting to hire a minor for purposes of prostitution, &c.	Ditto	Ditto	... Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
374	Buying or obtaining possession of a minor for the same purposes.	Ditto	Ditto	... Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
375	Unlawful compulsory labour	Ditto	Ditto	... Bailable	... Compoundable	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
376	Rape	... May arrest without warrant.	Warrant	... Not bailable	... Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

Of Rape.

Of the several Offences

377 Unnatural offences	May arrest with- out warrant.	Not bailable ...	Not com- poundable.	Transportation for life, or im- prisonment of either descrip- tion for 10 years, and fine.	Court of Session.
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CHAPTER XVII—OFFENCES AGAINST PROPERTY.

Of Theft.

379 Theft	May arrest with- out warrant.	Not bailable	Not com- poundable.	Imprisonment of either de- scription for 3 years, or fine, or both.	Any Magistrate.
380 Theft in a building, tent or vessel	Ditto	Ditto	Ditto	Imprisonment of either de- scription for 7 years and fine	Ditto.
381 Theft by clerk or servant of pro- perty in possession of master or employer.	Ditto	Ditto	Ditto	Ditto ...	Court of Ses- sion, Presidency Magistrate or Magistrate of the first or second class.
382 Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retreating after committing it, or to retaining property taken by it	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years and fine.	Court of Session.

SCHEDULE II—continued.
CHAPTER XVII—OFFENCES AGAINST PROPERTY—(continued).

Of Extortion.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
384	Extortion	...	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 10 years and fine	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto	Ditto	Ditto	Ditto	Transportation for life	Ditto.

389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence be an unnatural offence.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life	Ditto.
<i>Of Robbery and Dacoity.</i>											
392	Robbery	...	...	Warrant	...	Not bailable	...	Not com- poundable.	...	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	...	...	Ditto	...	Ditto	...	Ditto	...	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity	...	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session.
396	Murder in dacoity	...	...	Ditto	...	Ditto	...	Ditto	...	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Rigorous imprisonment for not less than 7 years.	Ditto.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Robbery and Dacoity—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Rigorous imprisonment for not less than 7 years.	Court of Session.
399	Making preparation to commit dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
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404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If by clerk or person employed by deceased.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust	May arrest without warrant.	...	Warrant	...	Not bailable	...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Criminal Breach of Trust—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
409	Criminal breach of trust by public servant or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of the Receiving of Stolen Property.

		May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
411	Dishonestly receiving stolen property, knowing it to be stolen.						
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
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Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant	...	Bailable	...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law, or by legal contract, to protect.	Ditto	...	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation	Ditto	...	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Ditto	...	Ditto	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Fraudulent Deeds and Dispositions of Property.

1 Section.	2 Offence	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Mischief.

426	Mischief	Shall not arrest without warrant.	Summons	Bailable	...	Compoundable when the only loss or damage or both.	Any Magistrate.
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SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(continued).
Of Mischief—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant is necessary in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

440 Mischief committed after preparation made for causing death or hurt, &c. Ditto ... Ditto ... Imprisonment of either description for 5 years and fine. Ditto.

Of Criminal Trespass.

447	Criminal trespass	...	May arrest without warrant.	...	Bailable	...	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	...	Ditto	...	Not bailable	...	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	...	Ditto	...	Bailable	...	Ditto	Imprisonment of either description for 2 years and fine.	Any Magistrate.
	If the offence is theft	...	Ditto	...	Not bailable	...	Ditto	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
452	House-trespass, having made preparation for causing hurt, assault, &c.	...	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.

SCHEDULE II—continued.
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—(concluded).
Of Criminal Trespass—(concluded).

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall or not be first issued.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
453	Lurking house-trespass or house-breaking.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 2 years and fine.	Presidency Magistrate or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
455	If the offence is theft.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Court of Session, Presidency Magistrate or Magistrate of the first class.
456	Lurking house-trespass or house-breaking by night.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
	If the offence is theft	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—continued.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

1	2	3	4	5	6	7	8
Section	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code	By what Court triable.
465	Forgery	... Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
466	Forgery of a record of a Court of Justice or of a Register of births, &c. ; or by a public servant.	Ditto	Ditto	Not bailable	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, &c.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Ditto.
468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto	Ditto	Ditto	Ditto	Punishment for forgery	Ditto.

	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto	...	Not bailable ...	Ditto	...	Ditto	...	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant	Ditto	...	Ditto	Ditto	...	Transportation for life, or imprisonment of either description for 7 years and fine.	...	Ditto.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Ditto	Ditto	...	Ditto	Ditto	...	Imprisonment of either description for 7 years, and fine.	...	Ditto.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine: if the document is one of the descriptions mentioned in section 466 of the Indian Penal Code.	Ditto	Ditto	...	Ditto	Ditto	...	...	...	Ditto.
475	If the document is one of the descriptions mentioned in section 466 of the Indian Penal Code.	Ditto	Ditto	...	Ditto	Ditto	...	Transportation for life, or imprisonment of either description for 7 years, and fine.	...	Ditto.
476	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material	Ditto	Ditto	...	Ditto	Ditto	...	Ditto	...	Ditto.

SCHEDULE II—continued.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—(concluded).

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
476	Counterfeiting a device or mark used for authenticating documents, other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

SCHEDULE II—continued.
CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
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494	Marrying again during the lifetime of a husband or wife.	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Court of Session.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto	...	Bailable	...	Compoundable.	...	Imprisonment of either description for 5 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

CHAPTER XXI.—DEFAMATION.

500	Defamation	...	...	Shall not arrest without warrant.	...	Bailable	...	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.

SCHEDULE II—continued.

CHAPTER XXI.—DEFAMATION—(concluded).

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

		Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace.	Ditto ...	Ditto ...	Not bailable ...	Not compoundable.	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.
506	Criminal intimidation	Ditto ...	Ditto ...	Bailable ...	Compoundable.	Ditto ...	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

597	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
598	Accused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
599	Uttering any word or making any gesture intended to insult the modesty of a woman, &c.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
600	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.

611	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Compounding the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.
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SCHEDULE II—concluded.
OFFENCES AGAINST OTHER LAWS.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant for a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether committal or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
	If punishable with death, transportation or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ...	Not bailable ...	Not committable.	.....	According to the provisions of section 29 of this Code.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	.....
				Except in cases under the Indian Arms Act, 1879, section 19, which shall be bailable.			
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons ...	Bailable ...	Ditto ...	.....
	If punishable with fine only ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	.....

SCHEDULE III.

ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

I.—Ordinary Powers of a Magistrate of the Third Class.

- (1) Power to arrest, or direct the arrest in his presence of, an offender ; section 65.
- (2) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant ; sections 83, 84 & 86.
- (3) Power to issue proclamations in cases judicially before him, section 87.
- (4) Power to attach and sell property in cases judicially before him, section 88.
- (5) Power to restore attached property, section 89.
- (6) Power to issue search-warrant, section 96.
- (7) Power to endorse a search-warrant and order delivery of thing found, section 99.
- (8) Power to record statements or confessions during a police investigation, section 164.
- (9) Power to authorize detention of a person during a police-investigation, section 167.
- (10) Power to detain an offender found in Court, section 351.
- (11) Power to sell perishable property of a suspected character, section 525.

II.—Ordinary Powers of a Magistrate of the Second Class.

- (1) The ordinary powers of a Magistrate of the third class.
- (2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

III.—Ordinary Powers of a Magistrate of the First Class.

- (1) The ordinary powers of a Magistrate of the second class.
- (2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.
- (3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.
- (4) Power to require security to keep the peace, section 107.
- (5) Power to require security for good behaviour, section 109.
- (6) Power to make orders, &c., in possession cases ; sections 145, 146 and 147.
- (7) Power to commit for trial, section 206.
- (8) Power to stop proceedings when no complainant, section 249.
- (9) Power to make orders of maintenance, sections 488 and 489.

IV.—Ordinary Powers of a Sub-divisional Magistrate.

- (1) The ordinary powers of a Magistrate of the first class.
- (2) Power to direct warrants to landholders, section 78.
- (3) Power to make orders as to local nuisances, section 133.
- (4) Power to make orders prohibiting repetitions of nuisances, section 143.
- (5) Power to make orders under section 144.
- (6) Power to hold inquests, section 174.
- (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
- (8) Power to entertain complaints, section 191.
- (9) Power to receive police-reports, section 191.
- (10) Power to entertain cases without complaint, section 191.
- (11) Power to transfer cases to a Subordinate Magistrate, section 192.
- (12) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.
- (13) Power to sell property alleged or suspected to have been stolen, &c. section 524.
- (14) Power to withdraw cases other than appeals, and to try or refer them for trial ; section 528.

V.—Ordinary Powers of a District Magistrate.

- (1) The ordinary powers of a Sub-divisional Magistrate, being a Magistrate of the first class.
- (2) Power to issue search-warrants for documents in custody of Postal or Telegraph authorities, section 96.
- (3) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.
- (4) Power to cancel bond for keeping the peace, section 125.
- (5) Power to try summarily, section 260.
- (6) Power to quash convictions in certain cases, section 350.
- (7) Power to hear appeals from orders requiring security for good behaviour, section 406.
- (8) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.
- (9) Power to call for records, section 435.
- (10) Power to revise orders passed under section 514 ; section 515.

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SCHEDULE IV.

ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH
WHICH A MAGIS-
TRATE OF THE
FIRST CLASS MAY
BE INVESTED

By THE LOCAL GOVERN-
MENT

- (1) Power to require security for good behaviour, section 110 :
- (2) Power to make orders as to local nuisances, section 143 :
- (3) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (4) Power to make orders under section 144 :
- (5) Power to hold inquests, section 174 :
- (6) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186 :
- (7) Power to take cognizance of offences upon complaint, section 191 :
- (8) Power to take cognizance of offences upon police reports, section 191 :
- (9) Power to take cognizance of offences upon information, section 191 :
- (10) Power to try summarily, section 260 :
- (11) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407 :
- (12) Power to sell property alleged or suspected to have been stolen, &c., section 524.

By THE DISTRICT MAGIS-
TRATE

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (4) Power to take cognizance of offences upon complaint, section 191 :
- (5) Power to take cognizance of offences upon police reports, section 191 :
- (6) Power to transfer cases, section 192.

By THE LOCAL GOVERN-
MENT

- (1) Power to pass sentences of whipping, section 32 :
- (2) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (3) Power to make orders under section 144 :
- (4) Power to hold inquests, section 174 :
- (5) Power to take cognizance of offences upon complaint, section 191 :
- (6) Power to take cognizance of offences upon police reports, section 191 :
- (7) Power to take cognizance of offences upon information, section 191 :
- (8) Power to commit for trial, section 206 :

POWERS WITH
WHICH A MAGIS-
TRATE OF THE
SECOND CLASS
MAY BE INVESTED

By THE DISTRICT
MAGISTRATE

- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (4) Power to take cognizance of offences upon complaint, section 191 :
- (5) Power to take cognizance of offences upon police reports, section 191.

SCHEDULE IV—concluded.

POWERS WITH WHICH A MAGISTRATE OF THE THIRD CLASS MAY BE INVESTED	BY THE LOCAL GOVERNMENT	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 191 : (5) Power to take cognizance of offences upon police reports, section 191 : (6) Power to commit for trial, section 206.
	BY THE DISTRICT MAGISTRATE	(1) Power to make orders prohibiting repetitions of nuisances, section 143 : (2) Power to make orders under section 144 : (3) Power to hold inquests, section 174 : (4) Power to take cognizance of offences upon complaint, section 191 : (5) Power to take cognizance of offences upon police reports, section 191.
POWERS WITH WHICH A SUB-DIVISIONAL MAGISTRATE MAY BE INVESTED	BY THE LOCAL GOVERNMENT	Power to call for records, section 435.

SCHEDULE V.

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(See section 68.)

To

of

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or by pleader, as the case may be*), before the (*Magistrate*) of , on the day of

Herein fail not.

Dated this day of , 18 .
(Seal.)

(Signature.)

II.—WARRANT OF ARREST.

(See section 75.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of , 18 .
(Seal.)

(Signature.)

(See section 76.)

This warrant may be endorsed as follows:—

If the said shall give bail himself in the sum of , with one surety in the sum of (or two sureties each in the sum of), to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of , 18 .

(Signature.)

FORMS.

SCHEDULE V—continued.

III.—BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT.

(See section 86.)

I, (name), of _____, being brought before the District Magistrate of _____
 (or, as the case may be) under a warrant issued to compel my appearance to answer to the
 charge of _____, do hereby bind myself to attend in the Court of _____
 on the _____ day of _____ next to answer to the said charge, and to continue
 so to attend until otherwise directed by the Court; and, in case of my making default herein,
 I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees _____.

Dated this _____ day of _____, 18 ____.

(Signature.)

I do hereby declare myself surety for the abovenamed _____ of _____, that he shall
 attend before _____ in the Court of _____ on the _____ day of _____
 next to answer to the charge on which he has been arrested, and shall continue so to attend
 until otherwise directed by the Court; and, in case of his making default therein, I hereby
 bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees _____.

Dated this _____ day of _____, 18 ____.

(Signature.)

IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED.

(See section 87.)

WHEREAS complaint has been made before me that (name, description and address) has
 committed (or is suspected to have committed) the offence of _____, punishable under section
 _____ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon
 issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction
 that the said (name) has absconded (or is concealing himself to avoid the service of the said
 warrant);

Proclamation is hereby made that the said _____ of _____ is required to
 appear at (place) before this Court (or before me) to answer the said complaint within
 _____ days from this date.

Dated this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(See section 87.)

WHEREAS complaint has been made before me that (name, description and address) has
 committed (or is suspected to have committed) the offence of (mention the offence concisely)
 and a warrant has been issued to compel the attendance of (name, description and address
 of the witness) before this Court to be examined touching the matter of the said com-
 plaint; and whereas it has been returned to the said warrant that the said (name of witness)
 cannot be served, and it has been shown to my satisfaction that he has absconded (or is con-
 cealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (name) is required to appear at (place) before
 the Court of _____ on the _____ day of _____ next at _____ o'clock, to be examined
 touching _____, the offence complained of.

Dated this _____ day of _____, 18 ____.

(Seal.)

(Signature.)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(See section 88.)

To the Police-officer in charge of the Police-station at _____.

WHEREAS a warrant has been duly issued to compel the attendance of (name, description and
 address) to testify concerning a complaint pending before this Court, and it has been returned
 to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction
 that he has absconded (or is concealing himself to avoid the service of the said warrant); and
 thereupon a Proclamation was duly issued and published requiring the said _____ to
 appear and give evidence at the time and place mentioned therein, and he has failed to appear;

This is to authorize and require you to attach by seizure the moveable property belonging
 to the said _____ to the value of rupees _____ which
 you may find within the District of _____ and to hold the said property under attachment

SCHEDULE V—*continued.*

FORMS

pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(Seal.)

(Signature.)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(See section 88.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found ; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days ; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (*or town*) of , in the District of , viz., , and an order has been made for the attachment thereof ;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 18 .

(Seal.)

(Signature.)

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(See section 88.)

To the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found ; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*), and thereupon a Proclamation was duly issued and published requiring the said to appear to answer the said charge within days, but he has not appeared ; and whereas the said is possessed of certain land paying revenue to Government in the village (*or town*), of in the District of ;

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of , 18 .

(Seal.)

(Signature.)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(See section 90.)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that of has (*or is suspected to have*) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint ; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so ;

This is to authorize and require you to arrest the said (*name*) and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

FORMS.

SCHEDULE V—continued.

VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

(See section 96.)

To (name and designation of the Police-officer or other person or persons who is or are to execute the warrant).

WHEREAS information has been laid (or complaint has been made) before me of the commission (or suspected commission) of the offence of (mention the offence concisely), and it has been made to appear to me that the production of (specify the thing clearly) is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence);

This is to authorize and require you to search for the said (the thing specified) in the (describe the house or place, or part thereof, to which the search is to be confined), and, if found, to produce the same forthwith before this Court; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(See section 98.)

To (name and designation of a Police-officer above the rank of a Constable).

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (describe the house or other place) is used as a place for the deposit (or sale) of stolen property (or, if for either of the other purposes expressed in the section, state the purpose in the words of the section);

This is to authorize and require you to enter the said house (or other place) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (or other place, or, if the search is to be confined to a part, specify the part clearly) and to seize and take possession of any property (or documents, or stamps, or seals, or coins, as the case may be)—[Add (when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps, or false seals, or counterfeit coin (as the case may be)] and forthwith to bring before this Court such of the said things as may be taken possession of; returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

X.—BOND TO KEEP THE PEACE.

(See section 105.)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to keep the peace for the term of . I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and, in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XI.—BOND FOR GOOD BEHAVIOUR.

(See sections 109 and 110.)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects for the term of (state the period), I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees .

Dated this day of , 18 .

(Signature.)

(Where a bond with sureties is to be executed, add) We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to Her Majesty the Queen, Empress of India, and to all her subjects during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees .

Dated this day of , 18 .

(Signature.)

SCHEDULE V—*continued.*

FORMS.

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(See section 114.)

To

of

WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*) and that you are likely to commit a breach of the peace (*or by which act a breach of the peace will probably be occasioned*), you are hereby required to attend in person (*or by a duly authorized agent*) at the Office of the Magistrate of _____ on the day of _____, 18____, at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees _____ [*when sureties are required, add and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of rupees (each, if more than one)*], that you will keep the peace for the term of _____.

Given under my hand and the seal of the Court, this _____ day of _____, 18____.

(Seal.)

(Signature.)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(See section 123.)

To the Superintendent (*or Keeper*) of the Jail at _____.

WHEREAS (*name and address*) appeared before me in person (*or by his authorized agent*) on the _____ day of _____ in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees _____ with one surety (*or a bond with two sureties each in rupees _____*), that he the said (*name*) would keep the peace for the period of _____ months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order;

This is to authorize and require you the said Superintendent (*or Keeper*) to receive the said (*name*) into your custody together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply with the said order by himself and his surety (*or sureties*) entering into the said bond, in which case the same shall be received, and the said (*name*) released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18____.

(Seal.)

(Signature.)

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(See section 123.)

To the Superintendent (*or Keeper*) of the Jail at _____.

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the District of _____ having no ostensible means of subsistence (*or, and that he is unable to give any satisfactory account of himself*);

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded from which it appears that he is an habitual robber (*or house-breaker, &c., as the case may be*);

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or two or more sureties, as the case may be*), himself for rupees _____, and the said surety (*or each of the said sureties*) for rupees _____, and the said (*name*) has failed to comply with the said order, and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorize and require you the said Superintendent (*or Keeper*) to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless he shall in the meantime comply

SCHEDULE V—continued.

[illegible]

(See sections 123 and 124.)

or

[illegible]

(See section 133.)

or

OT

or

or

or

OT

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) **(Signature.)**

SCHEDULE V—continued.

FORMS.

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

(See section 138.)

WHEREAS on the day of , 18 , an order was issued to *(name)* requiring him *(state the effect of the order)*, and whereas the said *(name)* has applied to me by a petition bearing date the day of for an order appointing a Jury to try whether the said recited order is reasonable and proper; I do hereby appoint *(the names, &c., of the five or more Jurors)* to be the Jury to try and decide the said question, and do require the said Jury to report their decision within days from the date of this order at my office at .

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(See section 140.)

To *(name, description and address)*.

I HEREBY give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of requiring you *(state substantially the requisition in the order)* is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within *(state the time allowed)* on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY.

(See section 142.)

To *(name, description and address)*.

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the day of , 18 , is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to *(state plainly what is required to be done as a temporary safeguard)*, pending the result of the local inquiry by the Jury.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, &C., OF A NUISANCE.

(See section 143.)

To *(name, description and address)*.

WHEREAS it has been made to appear to me that, &c. *(state the proper recital, guided by Form No. XVI or Form No. XXI, as the case may be)*;

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, &c. *(as the case may be)*.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, &C.

(See section 144.)

To *(name, description and address)*.

WHEREAS it has been made to appear to me that you are in possession *(or have the management)* of *(describe clearly the property)*, and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons *(mention the class of persons)* are about to meet and proceed in a religious procession along the public

FORMS.

SCHEDULE V—*continued.*

street, &c. (*as the case may be*), and that such procession is likely to lead to a riot or an affray ;

or

WHEREAS, &c., &c. (*as the case may be*) ;

I do hereby order you not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road ;

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or, as the case recited may require*).

Given under my hand and the seal of the Court, this day of , 18 ,

(Seal.)

(Signature.)

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, &c., IN DISPUTE.

(See section 145.)

It appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true,

I do decide and declare that he is (*or they are*) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (*or their*) possession in the meantime.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, &c.

(See section 146.)

To the Police-officer in charge of the Police-station at [or, To the Collector of] .

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) [or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid] ;

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained ; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANY THING ON LAND OR WATER.

(See section 147.)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or water*) is claimed exclusively by (*describe the person or persons*), and it appearing to me, on due inquiry into the same, that the said land (*or water*) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons, describe him or them*), and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the

SCHEDULE V —continued.

FORMS.

institution of the said inquiry (or if the use is enjoyable only at particular seasons, say "during the last of the seasons at which the same is capable of being enjoyed") ;

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (or retain) possession of the said land (or water) to the exclusion of the enjoyment of the right of use aforesaid, until he (or they) shall obtain the decree or order of a competent Court adjudging him (or them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(See section 169.)

I, (*name*), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of ,

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of next (or on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

I hereby declare myself (or We jointly and severally declare ourselves and each of us) surety (or sureties) for the above-said that he shall attend at , in the Court of on the day of next (or on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (or we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(See section 170.)

I, (*name*), of (*place*), do hereby bind myself to attend at , in the Court of , at o'clock on the day of next, and then and there to prosecute (or, to prosecute and give evidence, or to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(See section 218.)

The Magistrate of hereby gives notice that he has committed one for trial at the next Sessions ; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, &c. (*state the offence as in the charge*).

Dated this day of , 18 .

(Signature.)

XXVIII.—CHARGES.

(See sections 221, 222, 223.)

(I).—CHARGES WITH ONE HEAD.

(a) I, [*name and office of Magistrate, &c.*], hereby charge you [*name of accused person*] as follows:—

(b) That you, on or about the day of , at , waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian

On Penal Code, section 121.

FORMS.

SCHEDULE V—continued.

Penal Code, and within the cognizance of the Court of Session [when the charge is framed by a Presidency Magistrate, for Court of Session substitute High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[Signature and seal of the Magistrate.]

[To be substituted for (b) :—]

(2) That you, on or about the _____ day of _____, at _____, with the intention of inducing the Honourable A. B., Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(3) That you, being a public servant in the _____ Department, directly accepted from [state the name], for another party [state the name], a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(4) That you, on or about the _____ day of _____, at _____, did [or omitted to do, as the case may be] such conduct being contrary to the provisions of Act _____, section _____, and known by you to be prejudicial to _____, and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(5) That you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in evidence that “ _____,” which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(6) That you, on or about the _____ day of _____, at _____, committed culpable homicide not amounting to murder, causing the death of _____, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(7) That you, on or about the _____ day of _____, at _____, abetted the commission of suicide by A. B., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(8) That you, on or about the _____ day of _____, at _____, voluntarily caused grievous hurt to _____, and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(9) That you, on or about the _____ day of _____, at _____, robbed [state the name] and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(10) That you, on or about the _____ day of _____, at _____, committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates, substitute “within my cognizance” for “within the cognizance of the Court of Session,” and in (c) omit “by the said Court.”]

(II).—CHARGES WITH TWO OR MORE HEADS.

(a) I, [name and office of Magistrate, &c.], hereby charge you [name of accused person] as follows :—

(b) First.—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Secondly.—That you, on or about the _____ day of _____, at _____, knowing a coin to be counterfeit, attempted to induce another person, by name A. B., to receive it as

SCHEDULE V—continued.

Forms.

genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[Signature and seal of the Magistrate.]

[To be substituted for (b) :—]

(2) *First*.—That you, on or about the _____ day of _____, at _____, committed murder by causing the death of _____, and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

On sections 302 and 304.

Secondly.—That you, on or about the _____ day of _____, at _____, by causing the death of _____, committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(3) *First*.—That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

On sections 379 and 382.

Secondly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Thirdly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

Fourthly.—That you, on or about the _____ day of _____, at _____, committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(4) That you, on or about the _____ day of _____, at _____, in the course of the inquiry into _____ before _____, stated in evidence that “_____”, and that you, on or about the _____ day of _____, at _____, in the course of the trial of _____, before _____, stated in evidence that “_____”, one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates, substitute “within my cognizance” for “within the cognizance of the Court of Session,” and in (c) omit “by the said Court.”]

(III).—CHARGE FOR THEFT AFTER A PREVIOUS CONVICTION.

I (name and office of Magistrate, &c.) hereby charge you (name of accused person) as follows :—

That you, on or about the _____ day of _____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code and within the cognizance of the Court of Session [or { High Court, } as the case may be.]

And you the said (name of accused) stand further charged that you, before the committing of the said offence, that is to say, on the _____ day of _____, had been convicted by the (state Court by which conviction was had) at _____ of an offence punishable under

FORMS.

SCHEDULE V—continued.

Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, &c,

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(See sections 245 and 258.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 18 , was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (or sections) of the Indian Penal Code (or of Act), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorize and require you, the said Superintendent (or Keeper) to receive the said (*prisoner's name*) into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXX.—WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER AMENDS BY DISTRESS.

(See section 250.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (or vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXI.—SUMMONS TO A WITNESS.

(See sections 68 and 252.)

To

of .

WHEREAS complaint has been made before me that of has (or is suspected to have) committed the offence of (*state the offence concisely, with time and place*) and it appears to me that you are likely to give material evidence for the prosecution;

SCHEDULE V—continued.

FORMS.

You are hereby summoned to appear before this Court on the _____ day of _____ next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

(See section 326.)

To the District Magistrate of _____.

WHEREAS a Criminal Session is appointed to be held in the Court-house at _____ on the _____ day of _____ next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A. M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(Here enter the names of Jurors and Assessors.)

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

XXXIII.—SUMMONS TO ASSESSOR OR JUROR.

(See section 328.)

To (name) of (place).

PURSUANT to a precept directed to me by the Court of Session of _____ requiring your attendance as an Assessor (or a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (place) at ten o'clock in the forenoon on the _____ day of _____ next.

Given under my hand and seal of office, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(See section 374.)

To the Superintendent (or Keeper) of the Jail at _____.

WHEREAS at the Session held before me on the _____ day of _____, 18 ____, (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. _____ of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section _____ of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the _____ Court of _____;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (prisoner's name) into your custody in the said jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said _____ Court.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

FORMS.

SCHEDULE V—continued.

XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

(See section 381.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day of , 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death, and whereas the order of the Court of confirming the said sentence has been received by this Court;

This is to authorize and require you the said Superintendent (or Keeper) to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

(See sections 381 and 382.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS at a Session held on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of , punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or, as the case may be*);

This is to authorize and require you, the said Superintendent (or Keeper), safely to keep the said (*prisoner's name*) in your custody in the said jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or
if the mitigated sentence is one of imprisonment, say, after the words "custody in the said jail," "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXVII.—WARRANT TO LEVY A FINE BY DISTRESS AND SALE.

(See section 386.)

To (*name and designation of the Police-officer or other person, or persons, who is or are to execute the warrant*).

WHEREAS (*name and description of the offender*) was on the day of 18 , convicted before me of the offence of (*mention the offence concisely*) and sentenced to pay a fine of rupees , and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the District of ; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or forthwith*), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

SCHEDULE V—*continued.*

FORMS

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(See section 480.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS at a Court holden before me on this day (*name and description of the offender*) in the presence (or view) of the Court committed wilful contempt ;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or in default to suffer simple imprisonment for the space of (*state the number of months or days*) ;

This is to authorize and require you, the Superintendent (or Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), unless the said fine be sooner paid ; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(See section 485.)

To (*name and designation of officer of Court*) .

WHEREAS (*name and description*), being summoned (or brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (or certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*) ;

This is to authorize and require you to take the said (*name*) into custody, and him safely keep in your custody for the space of days unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law : returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(See section 488.)

To the Superintendent (or Keeper) of the Jail at .

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [or his child (*name*), who is by reason of (*state the reason*) unable to maintain herself (or himself)] and to have neglected (or refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (or child) for maintenance the monthly sum of rupees ; and whereas it has been further proved that the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of : And thereupon an order was made adjudging him to undergo simple (or rigorous) imprisonment in the said jail for the period of ;

This is to authorize and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody in the said jail, together with this warrant, and there carry the said

FORMS.

SCHEDULE V—*continued.*

order into execution according to law; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of . 18 .

(Seal.)

(Signature.)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(See section 488.)

To (*name and designation of the Police-officer or other person to execute the warrant*).

WHEREAS an order has been duly made requiring (*name*) to allow to his said wife (*or child*) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or months*) of ;

This is to authorize and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of , and if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or forthwith*), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum: returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(See sections 496 and 499.)

I, (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*) charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

I hereby declare myself (*or We jointly and severally declare ourselves and each of us*) surety (*or sureties*) for the said (*name*) that he shall attend at the Court of on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and in case of his making default therein, I bind myself (*or we bind ourselves*) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(See section 500.)

To the Superintendent (*or Keeper*) of the Jail at (*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (*or sureties*) duly executed a bond under section 490 of the Code of Criminal Procedure;

SCHEDULE V—continued.

FORMS.

This is to authorize and require you forthwith to discharge the said (name) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of , 18 .
(Signature.)

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(See section 514.)

To the Police-officer in charge of the Police-station at

WHEREAS (name, description and address of person) has failed to appear on (mention the occasion) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (the penalty in the bond); and whereas the said (name of person) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him.

This is to authorize and require you to attach any moveable property of the said (name) that you may find within the District of _____, by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

[illegible]

XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(See section 514.)

To _____ of _____

WHEREAS on the day of , 18 , you became surety for (name) of (place) that he should appear before this Court on the day of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (name) has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within _____ days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this _____ day of _____, 18____.

(Seal.) (Signature.)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See section 514.)

To _____ of _____

WHEREAS on the day of , 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of , and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India ; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security-bond has become forfeited :

You are hereby required to pay the said penalty of rupees _____, or to show cause within _____ days why it should not be paid.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.

(Seal.) (Signature.)

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(See section 514.)

To

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*);

FORMS.

SCHEDULE V—*continued.*

This is to authorize and require you to attach any moveable property of the said (*name*) which you may find within the District of _____, by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(*Seal.*) (Signature.)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO RAIL.

(See section 511.)

To the Superintendent (*or Keeper*) of the Civil Jail at _____.

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of _____ (*state the condition of the bond*), and _____ the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the Civil Jail for (*specify the period*);

This is to authorize and require you, the said Superintendent (*or Keeper*), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said Jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 18 ____.
(*Seal.*) (Signature.)

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(See section 511.)

To (*name, description and address*).

WHEREAS on the _____ day of _____, 18 ____, you entered into a bond not to commit, &c. (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees _____, or to show cause before me within _____ days why payment of the same should not be enforced against you.

Dated this _____ day of _____, 18 ____.
(*Seal.*) (Signature.)

L. — WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(See section 511.)

To (*name and designation of Police-officer*) at the Police-station of _____.

WHEREAS (*name and description*) did on the _____ day of _____, 18 ____, enter into a bond for the sum of rupees _____, binding himself not to commit a breach of the peace, &c. (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

SCHEDULE V—*continued.*

FORMS.

This is to authorize and require you to attach by seizure moveable property belonging to the said (name) to the value of rupees which you may find within the District of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realize the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(See Section 514.)

To the Superintendent (or Keeper) of the Civil Jail at .

WHEREAS proof has been given before me and duly recorded that (name and description) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas the said (name) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (name) in the Civil Jail for the period of (term of imprisonment) ;

This is to authorize and require you, the said Superintendent (or Keeper), of the said Civil Jail to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment) ; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

LII.—WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See Section 514.)

To the Police-officer in charge of the Police-station at .

WHEREAS (name, description and address) did on the day of , 18 , give security by bond in the sum of rupees for the good behaviour of (name, &c., of the principal), and proof has been given before me and duly recorded of the commission by the said (name) of the offence of , whereby the said bond has been forfeited; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum ;

This is to authorize and require you to attach by seizure moveable property belonging to the said (name) to the value of rupees which you may find within the District of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realize the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .
(Seal.) (Signature.)

LIII.—WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(See Section 514.)

To the Superintendent (or Keeper) of the Civil Jail at .

WHEREAS (name, description and address) did on the day of , 18 , give security by bond in the sum of rupees for the good behaviour of (name, &c., of the principal), and proof of the breach of the said bond has been given before me and duly

FORMS.

SCHEDULE V—concluded.

recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees ; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*) ;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) ; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*)

(*Signature.*)

R. J. CROSTHWAITE,
Offg. Secy. to the Govt of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1882, and is hereby promulgated for general information :—

ACT No. XI OF 1882.

THE INDIAN TARIFF ACT, 1882.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
Local extent.
Commencement.
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SCHEDULE I.—ACTS REPEALED.

SCHEDULE II.—IMPORT TARIFF.

SCHEDULE III.—EXPORT TARIFF.

An Act to amend the law relating to Customs Duties, and for other purposes.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India and of the terri-

ories of certain Native Chiefs and for fixing a maximum duty of excise on spirit manufactured in British India ; It is hereby enacted as follows :—

1. This Act may be called "The Indian Tariff Act, 1882"

Short title.

It extends to the whole of British India except Aden ; and it shall come into force on the passing thereof.

Local extent.

Commencement

2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein :

But all notifications published, and rules and orders made, under any of such Acts, and now in force, shall,

Saving clause

so far as they are consistent herewith, be deemed to have been respectively published and made hereunder.

All references made to the Indian Tariff Act, 1875, in Acts or Regulations passed before this Act comes into force, shall be deemed to be made to this Act :

And nothing herein contained authorizes the levy of duties of customs on any article carried from one port in British India to another, except salt, opium and spirit.

3. There shall be levied and collected, in every port to which this Act applies, the duties specified in the second and third schedules hereto annexed.

4. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council from time to time determines ; and at the close of each year, or as soon thereafter as may be convenient, the Customs-collector at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council from time to time directs.

5. Duties of customs shall be levied at the rates respectively prescribed in the second and third schedules hereto annexed on goods passing by land out of or into—

(a) Foreign European Settlements situate on the line of coast within the limits of the Presidency of Fort Saint George ;

(b) any territory declared, under the power next hereinafter conferred, to be foreign territory.

Subject to the control of the Governor General in Council, the Governor of Fort St. George in Council and the Governor of Bombay in Council may, from time to time, by notification

Power to declare territory foreign.

in the local official Gazette, respectively declare that the territory of any Native Chief, situate within, or bordering on, the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that the territory of any other Native Chief, shall be deemed, for the purposes of this section, to be foreign territory.

6. And whereas it is expedient that the duty of excise on spirit distilled in British India should bear a due proportion to the customs-duty on spirit imported into British India, it is hereby further enacted as follows :—

Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, the Local Government may, from time to time, by notification in the local official Gazette, fix the duty of excise leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, at any rate not exceeding the rate fixed for imported spirit by the second schedule hereto annexed ;

and all provisions now in force as to the levy of duty now chargeable on spirit shall apply to spirit upon which the duty declared under this section has not been paid.

In Act No. XVI of 1863, section one, for the words "calculated at ten" the words "not exceeding five" shall be substituted.

7. Spirit, opium and salt imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor General in Council or the Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the second schedule hereto annexed exceeds the duty shown by such certificate to have been already paid in respect thereof.

The amount, if any, paid to the Government as the price of such opium or salt is not duty within the meaning of this section.

8. So far as regards the Presidency of Fort St. George, the unrepealed provisions of Act No. VI of 1844, and so far as regards the Presidency of Bombay, the unrepealed provisions of Act No. XXIX of 1857, relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section five, clause (b).

9. All notifications published hereunder may be cancelled by the authority publishing the same.

SCHEDULE I.

ACTS REPEALED.

Number and year.	Short Title.	Extent of Repeal.
XI of 1869	The Land Customs (Madras and Bombay) Act, 1869	No much as has not been repealed.
XVI of 1875	The Indian Tariff Act, 1875	Ditto.
XI of 1878	The Indian Arms Act, 1878	Section 8 and the second Schedule.

SCHEDULE II.

IMPORT TARIFF.

No.	Names of Articles.	Port	Tariff valuation.	Duty.
1	ARMS, AMMUNITION AND MILITARY STORES— Fire-arms and parts thereof—			Rs. As.
	1. Fire-arms other than pistols, for each	.....	.....	50 0
	2. Barrels for the same, whether single or double, for each	.....	.....	30 0
	3. Pistols, for each	.....	.....	15 0
	4. Barrels for the same, whether single or double, for each	.....	.....	10 0
	5. Springs used for fire-arms, for each	.....	.....	8 0
	6. Gunstocks, sights, blocks and rollers, for each	.....	.....	5 0
	7. Revolver-breeches, for each cartridge they will carry	.....	.....	2 8

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.
	8. Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates, and all other parts of a fire-arm not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each ...	.....	.....	Rs. 1 Aa. 8
	9. Machines for making or loading or closing cartridges, for each ...	.....	.....	10 0
	10. Machines for capping cartridges, for each ...	.....	.....	2 8
	<i>Exception 1.</i> —Articles falling under the 5th, 6th, 8th, 9th, or 10th head of the above list, when they appertain to a fire-arm falling under the 1st or 3rd head, and are fitted into the same case with such fire-arm, are free.			
	<i>Exception 11.</i> —Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military or police uniform, and a revolver or a pair of pistols accompanying a military officer, are free.			
	<i>Proviso 1.</i> —No duty in excess of ten per cent. <i>ad valorem</i> shall be levied upon any of the articles mentioned in the above list when they are imported in reasonable quantity, for his own private use, by any person lawfully entitled to possess the same.			
	<i>Proviso 2.</i> —When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under this number, are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per cent. <i>ad valorem</i> ; and if such collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.			
	Gunpowder, common ...	lb	Rs. 0 Aa. 5	} 10 per cent.
	.. .. sporting ...	lb.	1 0	
	All other sorts ...	.....	<i>Ad valorem</i>	
2	Liquors—			
	Ale, beer and porter, except when condensed or concentrated ...	Impl. Gallon or six quart bottles ...	.....	One anna.
	Cider, and other fermented liquors ...	Ditto ...	.....	Rs. 4.
	Liqueurs ...	.....	.....
	Spirit intended to be used exclusively in arts or manufactures, or in chemistry, and which has been rendered effectually and permanently unfit for human consumption ...	.....	<i>Ad valorem</i>	5 per cent.
	Spirit, when used in drugs, medicines or chemicals in a proportion less than twenty per cent. of spirit of the strength of London proof ...	.....	<i>Ad valorem</i>	5 per cent.
	Spirit when so used in a proportion of twenty per cent. and upwards ...	Impl. Gallon or six quart bottles of the strength of London proof.	.....	} Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof.
	Spirit, perfumed, in wood, or in bottles containing more than four ounces ...	Ditto ...	.....
	Spirit, other sorts ...	Ditto ...	.....

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.
	Wines—			
	Champagne and all other sparkling wines . .	Impl. gallon or six quart bottles.	.....	Rs. 2-8.
	All other sorts of wines ...	Ditto ...	.....	Rs. 1.
3	OPIMUM NOT COVERED BY A GOVERNMENT PASS ...	Ser of 80 tolas	.....	Rs. 24.
4	SALT ...	Indian maund of 82½ lbs. avoirdupois weight.	.....	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.

SCHEDULE III.

EXPORT TARIFF.

Name of Article.	Per	Tariff valuation.	Rate of Duty.
RICE whether husked or unhusked ...	Indian maund of 82½ lbs. avoirdupois weight.	...	3 annas.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1882, and is hereby promulgated for general information:—

ACT No. XII OF 1882.
THE INDIAN SALT ACT, 1882.

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THE SCHEDULE—ENACTMENTS REPEALED.

An Act for regulating the duty on Salt, and for other purposes.

WHEREAS it is expedient to amend the law relating to the levy of duty on salt, and to the import and transit of salt, and the manufacture of salt and saltpetre, into, over and in British India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Indian Salt Act," 1882;
Commencement. and it shall come into force at once.

This section, sections two, seven and eight, and so much of this Act as refers to offences against any of its provisions or against any rules made under it, extend to the whole of British India;

The rest of this Act extends to the territories for the time being respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Panjáb and the Chief Commissioners of Oudh, the Central Provinces and Ajmir and Mairwára, to the Province of Sindh, to the Districts of the Patna Division, and to British territory under the jurisdiction of the Agent to the Governor General in Central India;

and any portion of this Act, other than the portions specified in the second paragraph of this section, may be extended, by order of the Governor General in Council published in the *Gazette of India*, to any part of British India other than the territories, Province and Districts mentioned in the third paragraph of this section.

2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof; but all rules made, licenses and passes granted, prices and duties fixed, notifications published and powers conferred under any such enactment and now in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, granted, fixed, published and conferred hereunder.

3. In this Act, unless there be something repugnant in the subject or context,—
the expression "the said territories" means the territories to which the section of this Act, in which that expression occurs, for the time being extends;
"Assistant Commissioner" means an Assistant Commissioner of Northern India Salt-revenue, and also includes any person invested by the Local Government with the powers of an Assistant Commissioner under this Act;

"Salt-revenue officer" means any officer of the Northern India Salt Department, and also includes any person invested by the Local Government with any of the powers of a Salt-revenue officer under this Act;

"Saltpetre" includes rasi, sajjí and all other substances manufactured from saline earth, and kháir-nún and every form of sulphate or carbonate of soda; and

"manufacture of salt" includes the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce alimentary salt, and the excavation or removal of natural saline deposits or efflorescence.

4. The powers and duties conferred and imposed by this Act on a Commissioner of a Division may, in places where there is no such Commissioner, be exercised and performed by such officer as the Governor General in Council may from time to time appoint in this behalf.

5. At the head of the administration of the salt-revenue under this Act there shall be an officer, called the Commissioner of Northern India Salt-revenue, who shall be appointed, and may be suspended or removed, by the Governor General in Council.

CHAPTER II.

MANUFACTURE AND REFINING OF SALT AND SALTPETRE.

6. The Governor General in Council may, from time to time, by rule,—

(a) prohibit absolutely, or subject to such conditions as he thinks fit, the manufacture of salt, or the manufacture or refining of saltpetre, throughout the whole or any portion of the said territories;

(b) fix fees for the following licenses, not exceeding in the case of each such license the amount herein-after mentioned:—

	Rs.
License to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining ...	50
License to manufacture saltpetre ...	2
License to manufacture sulphate of soda (<i>kháir-nún</i>) by solar heat in evaporating pans ...	10
License to manufacture sulphate of soda (<i>kháir-nún</i>) by artificial heat ...	2
License to manufacture other saline substances ...	2

(c) determine the manner, time and place in and at which, and the persons by whom, any duty imposed hereunder shall be collected in the said territories;

(d) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of Government, or of any manufactory and its appurtenances in or on which saltpetre is manufactured or refined, and regulate the possession, storage and sale of salt within such area;

(e) define an area round any other place in which salt is manufactured, and regulate the possession, storage and sale of salt within such area.

CHAPTER III.

DUTY AND PRICE OF SALT.

7. The Governor General in Council may from time to time by rule consistent with this Act—

(a) impose a duty, not exceeding three rupees per maund of 82½ pounds avoirdupois, on salt manufactured in, or imported by land into, any part of British India;

(b) reduce or remit any duty so imposed, and re-impose any duty so reduced or remitted;

(c) fix the minimum price at which salt excavated, manufactured or sold by or on behalf of the Government of India shall be sold.

In calculating the amount of duty payable under this section, fractions of quarter maunds may be reckoned as quarter maunds.

8. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf, the Local Government may from time to time, by notification in the local official Gazette, fix the minimum price at which salt excavated, manufactured or sold by or on behalf of such Local Government shall be sold.

CHAPTER IV.

OFFENCES AGAINST THE SALT-REVENUE.

9. Whoever commits any of the following offences (namely):—

(a) does anything in contravention of this Act or of any rule made hereunder;

(b) evades payment of any duty or charge payable under this Act or any such rule; or

(c) attempts to commit, or abets within the meaning of the Indian Penal Code the commission of, any of the offences mentioned in clauses (a) and (b) of this section,

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both;

and the convicting Magistrate, on the application of the Assistant Commissioner or Salt-revenue officer, may declare to be confiscated all works, materials and implements constructed or prepared for the purpose of manufacturing or refining salt or saltpetre contrary to the provisions of this Act or any such rule.

10. Any person convicted of an offence under section nine, after having been previously convicted of an offence under that section or section 11 of the Inland Customs Act, 1875, or under any enactment repealed by that Act, shall be punished with imprisonment for a term which may extend to six months, in addition to the punishment which may be inflicted for a first offence under section nine;

and every such person shall, upon every subsequent conviction of an offence under section nine, be liable to imprisonment for a term which may extend to six months, in addition to any term of imprisonment to which he was liable at his last previous conviction.

11. A charge of an offence under section nine, or under section 11 of the Inland Customs Act, 1875, shall not be entertained except on the complaint of an Assistant Commissioner or other Salt-revenue officer not inferior in rank to a Sub-Inspector,

and no such complaint shall be admitted unless it is preferred within six months after the commission of the offence to which it refers.

All such offences shall be tried by a Magistrate exercising powers not less than those of a Magistrate of the second class.

12. All salt or saltpetre in respect of which any offence mentioned in section nine has been committed, together with the vessels, packages or coverings in which such salt or saltpetre is contained, and the animals and conveyances used in carrying it, shall be liable to confiscation.

When the article seized exceeds five sers in weight, the Commissioner of the Division in which the seizure takes place may, if satisfied on the report of any Salt-revenue officer, or on such inquiry as he thinks fit to make, that such offence has been committed, declare such article to be confiscated or impose such lesser penalty in lieu of confiscation as to him may seem fit.

If the article seized does not exceed five sers in weight, the Assistant Commissioner shall possess the same powers in regard to its disposal as by this section are conferred on the Commissioner of the Division in regard to quantities exceeding five sers, and may also confiscate any vessel, package or covering in which such article is contained.

Whenever such Commissioner declares under this section any article to be confiscated, he may also declare to be confiscated any vessel, package or covering in which such article is contained, and any animal or conveyance used in carrying it.

13. The Governor General in Council may, from time to time, by rule, direct that any Salt-revenue officer, not inferior in rank to an Assistant Inspector, if satisfied in such manner as such rule may prescribe that any offence mentioned in section nine has been committed in respect of any dutiable salt, shall, instead of making a complaint to a Magistrate, or instituting proceedings with a view to confiscation, impose as a penalty an additional duty on such salt not exceeding the duty leviable thereon under Chapter III of this Act.

The imposition of every such penalty shall be at once reported, if the salt, in respect of which an offence has been committed, exceeds five sers in weight, to the Commissioner of the Division in which such penalty is imposed, and, if such salt does not exceed five sers in weight, to the Assistant Commissioner,

and shall require the sanction of the Commissioner or Assistant Commissioner, as the case may be, to whom it is so reported.

14. Any zamindár or other proprietor of land, and any agent of a zamindár or proprietor of land, who wilfully connives at any offence mentioned in section nine, shall for every such offence be punishable by any Magistrate exercising powers not less than those of a Magistrate of the second class with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

CHAPTER V.

POWERS OF STOPPAGE, SEARCH, SEIZURE AND ARREST.

15. Any Salt-revenue officer empowered in this behalf by the Local Government may at any time enter and search any place in which any article is manufactured or refined under a license granted under this Act or any rule made hereunder.

16. Any Salt-revenue officer may stop and detain any person whom he has reason to believe to be liable to punishment under this Act ;

and may seize any salt or saltpetre in respect of which there is reason to believe that any offence mentioned in section nine has been committed, or that any duty is payable, together with the vessels, packages or coverings in which such salt or saltpetre is contained, and the animals or conveyances used in carrying it.

17. Any Salt-revenue officer may arrest any person whom he has reason to believe to have committed any such offence as last aforesaid.

18. Whenever any Salt-revenue officer, not inferior in rank to a Sub-Inspector, has reason to believe that salt or saltpetre is being unlawfully manufactured, refined or stored in an unlicensed place,

such officer shall first record in writing (so far as may be practicable) (a) the name, residence, and calling of the informant (if any); (b) the locality and description of the house, boat or place where the officer believes that the salt or saltpetre is being so manufactured, refined or stored; (c) the name of the person by or for whom the salt or saltpetre is so manufactured, refined or stored; and (d) the supposed quantity and description of the salt or saltpetre, with the grounds for believing the same to be unlawfully manufactured, refined or stored;

and may then summon in writing the officer in charge of the Police-station within whose jurisdiction the house, boat or place to be searched is situate to attend him;

and may then, after sunrise and before sunset (but always in the presence of an officer of Police not inferior in rank to a head constable), enter and search any house, boat or place in which

there is reason to believe that salt or saltpetre is being so manufactured, refined or stored;

and, in case of resistance, may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all salt and saltpetre so manufactured, refined or stored, and all materials used in the manufacture or refinement of such salt or saltpetre;

and may also detain and search and, if he thinks proper, arrest the occupier of the said house, boat or place, together with all persons concerned in the manufacture, refinement, or storing of such salt or saltpetre, or in the concealing thereof.

If the place so entered is an apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the officer entering the same shall be guided by the rules prescribed for such cases in the Code of Criminal Procedure.

Before conducting a search under this section, the officer conducting it shall call upon two or more respectable inhabitants (if any) of the locality in which the house, boat or place is situate to attend and witness the search, and the search shall be made in the presence of such inhabitants (if any), and also (if practicable) of the occupant of the house, boat or place searched.

Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

19. Any officer in charge of a Police-station who, on application in writing made by a Salt-revenue officer to attend for any of the purposes specified in section eighteen, refuses or fails within a reasonable time so to attend or to depute a subordinate officer, not inferior in rank to a head constable, so to attend, shall for every such offence be punished with fine which may extend to five hundred rupees.

20. Whenever a Salt-revenue officer under the rank of Assistant Commissioner arrests under this Act any person,

or seizes any article as liable to confiscation under this Act,

or enters any house, boat or place for the purpose of searching for any such article,

he shall (unless generally empowered by the Assistant Commissioner to send the person arrested to the Magistrate) within forty-eight hours next after such arrest, seizure or entry make a full report of all the particulars of such arrest, seizure or entry to his official superior for the information of the Assistant Commissioner.

Every officer making any arrest under this Act, or his official superior, shall, if generally empowered in this behalf by the Assistant Commissioner, either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the discharge of such person.

Every officer of Police attending any search made under section eighteen shall report the same to his official superior.

21. Whenever the Assistant Commissioner is informed of the seizure of any article exceeding five seers in weight as liable to confiscation under this Act, he shall, with all convenient

ent despatch, report the circumstances of the case to the Commissioner of the Division in which such seizure is made, who may thereupon proceed under section twelve.

If the article seized does not exceed five sers in weight, such Assistant Commissioner may dispose of the case himself under the said section.

22. Any article in respect of which a penalty is imposed under section thirteen may be detained pending the receipt of the order of the Commissioner of the Division or the Assistant Commissioner, as the case may be, on the report required by the same section :

Provided that, if the owner of any article so detained deposits the amount of such penalty with, and pays all ordinary duty and charges payable on such article to, the Salt-revenue officer detaining the same, such article shall be at once released.

When an article is so detained it shall on the receipt of the said order be dealt with in accordance with the rules made in this behalf hereunder.

When an article has been released under the second paragraph of this section, and the Commissioner of the Division or Assistant Commissioner, as the case may be, reduces, or declines to sanction, the penalty imposed in respect of such article, the amount refundable to the owner shall be paid to him on his applying therefor to the Assistant Commissioner within six months, to be computed (where the order has been made by the Commissioner of the Division) from the day on which the Assistant Commissioner has received such order, and (where the order has been made by the Assistant Commissioner) from the date of such order.

When any penalty the amount of which has been deposited under the second clause of this section is sanctioned,

or when any sum refundable under this section has not been claimed within the said period of six months,

the amount so in deposit, or the sum so refundable, shall be forfeited to Her Majesty, unless the Commissioner of Northern India Salt-revenue otherwise directs.

23. Whenever the Assistant Commissioner is informed of the arrest of any person, he shall (unless such person has been dealt with under the penultimate paragraph of section twenty) either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the immediate discharge of such person.

24. All officers of Police, and all officers of Government engaged in the collection of land-revenue, are hereby empowered and required to assist the Salt-revenue officers in the execution of this Act.

25. Any Salt-revenue officer who—

(a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place ;

(b) vexatiously and unnecessarily detains, searches or arrests any person ;

(c) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act ;

(d) commits as such officer any other act to the injury of any person, when such officer has not reason to believe that such act is required for the execution of his duty,

shall for every such offence be punishable, by a Magistrate exercising powers not less than those of a Magistrate of the second class, with fine which may extend to five hundred rupees.

Any person wilfully and maliciously giving false information and so causing a search to be made under this Act shall be punishable, by a Magistrate exercising the same powers, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to two years, or with both.

26. The Governor General in Council may from time to time make rules consistent with this Act to regulate the seizure, disposal and destruction of things liable to be seized under this Act.

Such rules may, among other matters, provide—

(a) that the owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and that, if he omits to do so, such animal may be sold by public auction, and the expenses (if any) incurred on account of it defrayed from the proceeds of the sale ;

(b) that when anything is seized and an order for its release is subsequently passed, and the owner does not, within a period to be fixed by such rules, appear to claim such thing and tender the duty, penalties and charges (if any) due in respect thereof, it may be sold by public auction, and such duty, penalties and charges defrayed from the proceeds of the sale ;

(c) that the surplus-proceeds of a sale under clause (a) or clause (b) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period, not less than three months, to be fixed by such rules, be forfeited to Her Majesty.

CHAPTER VI.

MISCELLANEOUS.

27. The Governor General in Council may, from time to time, by rule, prohibit absolutely, or subject to conditions, the importation of salt into, or the transit of salt over, the said territories or any part thereof.

Except in the case of a prohibition under this section, nothing in this Act shall affect the transit of salt into or from any of the said territories, from or into any other part of British India.

28. In addition to the rules which the Governor General in Council is hereinbefore empowered to make, he may from time to time make rules consistent with this Act to regulate the following matters, namely :—

(a) the persons by whom, and the time, place and manner at or in which, anything to be done under this Act shall be done ;

(b) the cases in which and the officers to whom, and the conditions subject to which, orders given by Salt-revenue officers under this Act shall be appealable ;

(c) the fee to be charged on account of any license, pass, certificate, dākhilā, rawāna or other such document issued under this Act ;

and generally to carry out the provisions herein contained.

29. All rules made under this Act shall be published in the *Gazette of India*, and shall thereupon

Publication of rules.
have the force of law.

30. Subject to the provisions herein contained,

Power to confer powers of Assistant Commissioner and Salt-revenue officers.
and to any rules for the time being in force made by the Governor General in Council, the Local Government or the Commissioner of Northern India Salt-revenue may invest any person with the powers of an Assistant Commissioner under this Act, or with all or any of the powers hereinbefore conferred on Salt-revenue officers.

31. For section 11 of the Madras Salt Excise Amendment of Madras Act, 1871, the following shall be substituted :—

“ 11. The excise-duty on salt manufactured in any district, or part of a district, to which this Act may be

Levy of duty on salt.
extended, shall be paid under such orders as the Board of Revenue from time to time makes in this behalf ; but no such duty shall be leviable until the salt is about to be removed from the place of storage, and no salt shall be so removed without a permit authorizing its removal from store, and such permit shall specify the quantity to be removed and the excise-duty levied or due thereon.”

SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
VIII of 1875	The Inland Customs Act, 1875.	The whole.
II of 1876 ...	The Burma Land and Revenue Act, 1876.	Section 39, clause (b), and in clause (c) of the same section the words and letter “under clause (b).”
XVIII of 1877	The Salt Act, 1877	The whole.

REGULATION.

III of 1877	The Ajmir Laws Regulation, 1877.	Sections 36 and 37.
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ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
VII of 1864	The Salt Act, 1864	Section nine.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1882, and is hereby promulgated for general information:—

ACT NO. XIII OF 1882.

An Act to amend the law relating to Kánúngos and Patwáris in the North-Western Provinces and Oudh.

WHEREAS it is expedient to amend, in manner hereinafter appearing, the law relating to Kánúngos and Patwáris in the North-Western Provinces; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Kánúngos and Patwáris Act, 1882;" and shall come into force at once.

Commencement.

2. Sections 29, 30 and 31 of the North-Western Provinces Land-Revenue Act, 1873, and sections 4 and 5 of the North-Western Provinces Land-Revenue Act, 1879, are hereby repealed.

Notwithstanding such repeal any landlord may recover from a tenant any rate, or any portion of a rate accruing due before the thirtieth day of June, 1882, and which he is entitled to recover, under any rule made under section 29 of the said North-Western Provinces Land-Revenue Act, 1873, from such tenant.

3. The existing balance of the provincial fund constituted by section 29 of the said North-Western Provinces Land-Revenue Act, 1873, shall be disposed of in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

4. For the purpose of preparing the registers or accounts prescribed by the said North-Western Provinces Land-Revenue Act, 1873, or by any rule made thereunder, every owner or occupier of land in any patwári's circle, and the agent of every such owner or occupier, shall furnish to the patwári of such circle, the Kánúngo or such

person as the Collector of the district may appoint in this behalf, such information, at such times, as the Local Government may from time to time by rule prescribe.

Explanation.—"Owner" in this section includes also a superior and an inferior proprietor, and a lessee, mortgagee or conditional vendee, in possession.

And whereas it is also expedient to amend the law relating to Kánúngos and Patwáris in Oudh; It is hereby further enacted as follows:—

5. Sections 203 to 215 (both inclusive) of the Oudh Land-Revenue Act, 1876, are hereby repealed; but all appointments and rules made under any of the said sections and now in force shall, so far as they are consistent herewith, be deemed to have been made hereunder.

6. With the previous sanction of the Chief Commissioner, the Deputy Commissioner shall fix the number of patwáris' circles in his district and the respective limits of such circles, and may, with the like sanction, from time to time alter the number and limits so fixed.

For each such circle the Deputy Commissioner shall appoint a patwári.

7. The Chief Commissioner may, from time to time, make rules consistent with this Act—

(a) regulating the selection, appointment, suspension, dismissal, duties and supervision of patwáris;

(b) prescribing the fines which may be imposed on patwáris, and on persons appointed temporarily to perform their duties, for neglect of their duty.

8. Every kánúngo and patwári, and every person appointed temporarily to perform the duties of any such officer, shall be deemed to be a public servant within the meaning of the Indian Penal Code,

and all official records and papers kept by any such officer or person shall be deemed to be public records and the property of Government.

9. For the purpose of preparing the registers or accounts prescribed by the said Oudh Land-Revenue Act, 1876, or by any rule made

thereunder, every owner or occupier of land in any patwari's circle, and the agent of every such owner or occupier, shall furnish to the patwari of such circle, the kánungo or such person as the Deputy Commissioner may appoint in this behalf, such information at such times, as the Chief Commissioner may from time to time by rule prescribe.

Explanation.—"Owner" in this section includes also a superior and an inferior proprietor, and a lessee, mortgagee or conditional vendee, in possession.

10. No suit shall be brought by a landlord
Suits for recovery of against a tenant for the
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accruing due after the thirtieth day of June, 1882, and payable, in money or in kind, by such tenant on account of the remuneration of a patwari.

11. Sections one and ten and this section extend
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administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh. Sections two, three and four extend to the territories administered by the said Lieutenant-Governor, and sections five to nine (both inclusive) extend to the territories administered by the said Chief Commissioner.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th March, 1882, and is hereby promulgated for general information :—

ACT No. XIV OF 1882.

THE CODE OF CIVIL PROCEDURE.

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An Act to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows:—

PRELIMINARY.

1. This Act may be cited as "The Code of Civil Procedure;" and it shall come into force on the first day of June, 1882.

This section and section 3 extend to the whole of British India. The other sections extend to the whole of British India except the Scheduled Districts as defined in Act No. XIV of 1874.

2. In this Act, unless there be something repugnant in the subject or context—

"chapter:" "chapter" means a chapter of this Code;

"district" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a

"District Court"), and includes the local limits of the ordinary original civil jurisdiction of a High Court; every Court of a grade inferior to that of a District Court and every Court of Small Causes shall, for the purposes of this Code, be deemed to be subordinate to the High Court and the District Court:

"pleader" means every person entitled to appear and plead for another in Court, and includes an advocate, a vakil and an attorney of a High Court:

"Government Pleader" includes also any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader:

"Collector" means every officer performing the duties of a Collector of land-revenue:

"decree" means the formal expression of an adjudication upon any right claimed, or defence set up,

in a Civil Court when such adjudication, so far as regards the Court expressing it, decides the suit or appeal. An order rejecting a plaint, or directing accounts to be taken, or determining any question mentioned or referred to in section 244, but not specified in section 588, is within this definition: an orders pecified in section 588 is not within this definition:

"order" means the formal expression of any decision of a Civil Court which is not a decree as

above defined:

"judgment" means the statement given by the Judge of the grounds of a decree or order:

"Judge" means the presiding officer of a Court:

"judgment-debtor" means any person against whom a decree or order has been made:

"decree-holder" means any person in whose favour a decree or any order capable of execution has been made, and includes any person to whom such decree or order is transferred:

"written" includes printed and lithographed, and "writing" includes print and lithography:

"signed" includes marked, when the person making the mark is unable to write his name; it also includes stamped with the name of the person referred to:

"foreign Court" means a Court situate beyond the limits of British India and not having authority in British India nor established by the Governor General in Council:

"foreign judgment" means the judgment of a foreign Court:

"public officer" means a person falling under any of the following descriptions (namely):—

every Judge;

every covenanted servant of Her Majesty;

every commissioned officer in the military or naval forces of Her Majesty while serving under Government;

every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any

document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty.

And in any part of British India in which this Code operates, "Government." "Government." includes the Government of India as well as the Local Government.

3. The enactments specified in the first schedule hereto annexed are hereby repealed to the extent mentioned in the third column thereof. But all notifications published, declarations and rules made, places appointed, agreements filed, scales prescribed and forms framed under any such enactment, shall, so far as they are consistent with this Code, be deemed to be respectively published, made, appointed, filed, prescribed and framed hereunder.

And when in any Act, Regulation or notification passed or issued prior to the day on which this Code comes into force, reference is made to Act No. VIII of 1859, Act No. XXIII of 1861, or the Code of Civil Procedure, or to Act No. X of 1877, or to any other Act hereby repealed, such reference shall, so far as may be practicable, be read as applying to this Code or the corresponding part thereof.

Save as provided by section 99A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of June, 1882, or any proceedings after decree that may have been commenced and were still pending at that date.

Every appeal pending on the twenty-ninth day of July, 1879, which would have lain if this Code had been in force on the date of its presentation, shall be heard and determined as if this Code had been in force on such date; and every order passed before the same day, purporting to transfer a case to a Collector under section 320, and every notification published before the same day, purporting to be issued under section 360, shall be deemed to have been respectively passed and issued in accordance with law.

4. Save as provided in the second paragraph of section 3, nothing herein contained shall be deemed to affect the following enactments (namely):—

The Central Provinces Courts Act, 1865:

The Burma Courts Act, 1875:

The Panjāb Courts Act, 1877:

The Cudh Civil Courts Act, 1879:

or any law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council, prescribing a special procedure for suits between landholders and their tenants or agents,

or any law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council, providing for the partition of immoveable property.

And where under any of the said Acts concurrent civil jurisdiction is given to the Commissioner and the Deputy Commissioner, the Local Government may declare which of such officers shall for the purposes of this Code be deemed to be the District Court.

5. The chapters and sections of this Code specified in the second schedule hereto annexed extend (so far as they are applicable) to Courts of Small Causes constituted under Act No. XI of 1865, and to all other Courts (other than the Courts of Small Causes in the towns of Calcutta, Madras and Bombay) exercising the jurisdiction of a Court of Small Causes. The other chapters and sections of this Code do not extend to such Courts.

Saving of jurisdiction and procedure— 6. Nothing in this Code affects the jurisdiction or procedure—

(a) of Military Courts of Request; (a) of Military Courts of Request; (b) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bāzārs at cantonments and stations occupied by the troops of that Presidency; or

(c) of Village Munsifs or Village Panchāyats under the provisions of the Madras Code; (c) of Village Munsifs and Village Panchāyats in Madras;

(d) of the Recorder of Rangoon sitting as an Insolvent Court in Rangoon, or shall operate to give any Court jurisdiction over suits of which the amount or value of the subject-matter exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. With respect to (a) the jurisdiction exercised by certain jāgīrdārs Saving of certain and other authorities invested with powers under the provisions of Bombay Regulation XIII of 1830 and Act XV of 1840 in the cases therein mentioned; and

(b) cases of the nature defined in the enactments specified in the third schedule hereto annexed, the procedure in such cases and in the appeals to the civil Courts allowed therein, shall be according to the rules laid down in this Code, except where those rules are inconsistent with any specific provisions contained in the enactments mentioned or referred to in this section.

8. Save as provided in sections 3, 25, 86, 223, 225, 386, and chapter XXXIX, this Code shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay.

But the Local Government may, by notification published in the official Gazette, extend to any

such Court this Code or any part thereof, except so far as relates to appeals and reviews of judgment.

9. This Code is divided into ten Parts as follows:—

The first Part :	Suits in General.
The second Part :	Incidental Proceedings.
The third Part :	Suits in particular Cases.
The fourth Part :	Provisional Remedies.
The fifth Part :	Special Proceedings.
The sixth Part :	Appeals.
The seventh Part :	Reference to and Revision by the High Court.
The eighth Part :	Review of Judgment.
The ninth Part :	Special Rules relating to the Chartered High Courts.
The tenth Part :	Certain Miscellaneous Matters.

PART I.

OF SUITS IN GENERAL.

CHAPTER I.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

10. No person shall, by reason of his descent or place of birth, be in any civil proceeding exempted from the jurisdiction of any of the Courts.

11. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is barred by any enactment for the time being in force.

Explanation.—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

12. Except where a suit has been stayed under section 20, the Court shall not try any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit for the same relief between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in British India having jurisdiction to grant such relief, or in any Court beyond the limits of British India established by the Governor General in Council and having like jurisdiction, or before Her Majesty in Council.

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

13. No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court of jurisdiction competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation II.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation III.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purpose of this section, be deemed to have been refused.

Explanation IV.—A decision is final within the meaning of this section when it is such as the Court making it could not alter (except on review) on the application of either party or reconsider of its own motion. A decision liable to appeal may be final within the meaning of this section until the appeal is made.

Explanation V.—Where persons litigate *bond fide* in respect of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purpose of this section, be deemed to claim under the persons so litigating.

Explanation VI.—Where a foreign judgment is relied on, the production of the judgment duly authenticated is presumptive evidence that the Court which made it had competent jurisdiction, unless the contrary appear on the record; but such presumption may be removed by proving the want of jurisdiction.

When foreign judgment no bar to suit in British India.

14. No foreign judgment shall operate as a bar to a suit in British India—

(a) if it has not been given on the merits of the case:

(b) if it appears on the face of the proceedings to be founded on an incorrect view of international law or of any law in force in British India:

(c) if it is in the opinion of the Court before which it is produced contrary to natural justice:

(d) if it has been obtained by fraud:

(e) if it sustains a claim founded on a breach of any law in force in British India.

CHAPTER II.

OF THE PLACE OF SUING.

Court in which suit to be instituted.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Suits to be instituted where subject-matter situate.

16. Subject to the pecuniary or other limitations prescribed by any law, suits

- (a) for the recovery of immoveable property,
- (b) for the partition of immoveable property,
- (c) for the foreclosure or redemption of a mortgage of immoveable property,
- (d) for the determination of any other right to or interest in immoveable property,
- (e) for compensation for wrong to immoveable property,
- (f) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that suits to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, when the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction he actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section 'property' means property situate in British India.

17. Subject to the limitations aforesaid, all other

Suits to be instituted where defendants reside or cause of action arose.

suits shall be instituted in a Court within the local limits of whose jurisdiction—

- (a) the cause of action arises, or
- (b) all the defendants, at the time of the commencement of the suit, actually and voluntarily reside, or carry on business, or personally work for gain; or
- (c) any of the defendants, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain: provided that either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution.

Explanation I.—Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

Explanation II.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(a) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A, and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(b) A resides at Simla, B at Calcutta, and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory-note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot be maintained without the leave of the Court.

18. In suits for compensation for wrong done to

Suits for compensation for wrongs to person or moveables. person or moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the plaintiff may at his option sue in either of the said Courts.

Illustrations.

(a) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

(c) A, travelling on the line of a Railway Company whose principal office is at Howrah, is upset and injured at Allahabad by negligence imputable to the Company. He may sue the Company either at Howrah or at Allahabad.

19. If the suit be to obtain relief respecting, or

Suits for immoveable property situate in single district, but within jurisdictions of different Courts.

compensation for wrong to, immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts,

the suit may be instituted in the Court within whose jurisdiction any portion of the property is situate; provided that, in respect of the value of the subject-matter of the suit, the entire claim be cognizable by such Court.

If the immoveable property be situate within the limits of different districts, the suit may be instituted in any Court, otherwise competent to try it, within whose jurisdiction any portion of the property is situate.

20. If a suit which may be instituted in more

Power to stay proceedings where all defendants do not reside within jurisdiction.

than one Court is instituted in a Court within the local limits of whose jurisdiction the defendant or all the

defendants does not, or do not actually and voluntarily reside, or carry on business, or personally work for gain, the defendant or any defendant may, after giving notice in writing to the other parties of his intention to apply to the Court to stay proceedings, apply to the Court accordingly;

and if the Court, after hearing such of the parties as desire to be heard, is satisfied that justice is more likely to be done by the suit being instituted in some other Court, it may stay proceedings either finally or till further order, and make such order as it thinks fit as to the costs already incurred by the parties or any of them.

In such case, if the plaintiff so requires, the Court shall return the plaint with an endorsement thereon of the order staying proceedings.

Every such application shall be made at the earliest possible opportunity, and in all cases before the issues are settled; and any defendant not so applying shall be deemed to have acquiesced in the institution of the suit.

21. Where the Court, under section 20, stays proceedings, and the plaintiff re-institutes his suit in another Court, the plaintiff shall not be chargeable with any court-fee; provided that the proper fee has been levied on the institution of the suit in the former Court, and that the plaintiff has been returned by such Court.

22. Where a suit may be instituted in more Courts than one, and such Courts are subordinate to the same appellate Court, any defendant, after giving notice in writing to the other parties of his intention to apply to such Court to transfer the suit to another Court, may apply accordingly; and the appellate Court, after hearing the other parties, if they desire to be heard, shall determine in which of the Courts having jurisdiction the suit shall proceed.

23. Where such Courts are subordinate to different appellate Courts, but are subordinate to the same High Court, any defendant, after giving notice in writing to the other parties of his intention to apply to the High Court to transfer the suit to another Court having jurisdiction, may apply accordingly. If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate. The High Court may, after considering the objections, if any, of the other parties, determine in which of the Courts having jurisdiction the suit shall proceed.

24. Where such Courts are subordinate to different High Courts, any defendant may, after giving notice in writing to the other parties of his intention to apply to the High Court within whose jurisdiction the Court in which the suit is brought is situate, apply accordingly.

If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate;

and such High Court shall, after considering the objections, if any, of the other parties, determine in which of the several Courts having jurisdiction the suit shall proceed.

25. The High Court or District Court may, on the application of any of the parties, after giving notice to the parties and hearing such of them as desire

to be heard, or of its own motion without giving such notice, withdraw any suit whether pending in a Court of first instance or in a Court of appeal subordinate to such High Court or District Court, as the case may be, and try the suit itself, or transfer it for trial to any other such subordinate Court competent to try the same in respect of its nature and the amount or value of its subject-matter.

For the purposes of this section, the Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

CHAPTER III.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

26. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the Court in disposing of the costs of the suit otherwise directs.

27. Where a suit has been instituted in the name of the wrong person or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may, if satisfied that the suit has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as the Court thinks just.

28. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative, in respect of the same matter. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

29. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange, hundis and promissory notes.

30. Where there are numerous parties having

One party may sue or defend on behalf of all in same interest. the same interest in one suit, one or more of such parties may, with the permission of

the Court, sue or be sued, or may defend, in such suit, on behalf of all parties so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such parties either by personal service or (if from the number of parties or any other cause such service is not reasonably practicable) by public advertisement, as the Court in each case may direct.

31. No suit shall be defeated by reason of the misjoinder of parties, and the Court may in every suit

Suit not to fail by reason of misjoinder. deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Nothing in this section shall be deemed to enable plaintiffs to join in respect of distinct causes of action.

32. The Court may, on or before the first hearing, upon the application of

Court may dismiss or add parties. either party, and on such terms as the Court thinks

just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out ;

and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

No person shall be added as a plaintiff, or as

Consent of person added as plaintiff or next friend. the next friend of a plaintiff, without his own consent thereto.

Any person on whose behalf a suit is instituted

Parties to suits instituted or defended under section 30. or defended under section 30 may apply to the Court to be made a party to such suit.

All parties whose names are so added as defend-

Defendants added to be served. ants shall be served with a summons in manner herein-after mentioned, and (subject

to the provisions of the Indian Limitation Act, 1877, section 22) the proceedings as against them shall be deemed to have begun only on the service of such summons.

The Court may give the conduct of the suit to

Conduct of suit. such plaintiff as it deems proper.

33. Where a defendant is added, the plaint, if

Where defendant added, plaintiff to amend. previously filed, shall, unless the Court direct otherwise, be amended in such manner

as may be necessary, and an amended copy of the summons shall be served on the new defendant and the original defendants.

34. All objections for want of parties, or for

Time for taking objections as to non-joinder or misjoinder. joinder of parties who have no interest in the suit, or for misjoinder as co-plaintiffs or

co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the first hearing ; and any such objection not so taken shall be deemed to have been waived by the defendant.

35. When there are more plaintiffs than one,

Each of several plaintiffs or defendants may authorize any other to appear, &c., for him. any one or more of them may be authorized by any other of them to appear, plead or act for such other

in any proceeding under this Code : and in like manner when there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any such proceeding.

The authority shall be in writing signed by the

Authority to be in writing signed and filed. party giving it, and shall be filed in Court.

Recognized Agents and Pleadors.

36. Any appearance, application or act in or to

Appearances, &c., may be in person, by recognized agent or by pleader. any Court, required or authorized by law to be made or done by a party to a suit or appeal in such Court, may, except when otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf :

Provided that any such appearance shall be made by the party in person, if the Court so direct.

37. The recognized agents of parties by whom

Recognized agents. such appearances, applications and acts may be made or done are—

(a) persons holding general powers-of-attorney

Persons holding powers-of-attorney from parties out of jurisdiction. from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, authorizing them to make and do such appearances, applications and acts on behalf of such parties ;

(b) mukhtárs duly certificated under any law for

Certificated mukhtárs. the time being in force, and holding special powers-of-attorney authorizing them to do, on behalf of their principals, such acts as may legally be done by mukhtárs ;

(c) persons carrying on trade or business for and

Persons carrying on trade or business for parties out of jurisdiction. in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters con-

nected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

Nothing in the former part of this section applies

Recognized agents in to the territories now admin-
Panjáb, Oudh and Cen- istered respectively by the
tral Provinces. Lieutenant-Governor of the

Panjáb, and the Chief Commissioners of Oudh and the Central Provinces; but in those territories the recognized agents of parties by whom such appearances, applications and acts may be made and done shall be such persons as the Local Government may from time to time, by notification in the official Gazette, declare in this behalf.

38. Processes served on the recognized agent of

a party to a suit or appeal shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

The provisions of this Code for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

39. The appointment of a pleader to make or do

any appearance, application or act as aforesaid shall be in writing, and such appointment shall be filed in court.

When so filed, it shall be considered to be in force until revoked with the leave of the Court, by a writing signed by the client and filed in court, or until the client or the pleader dies, or all proceedings in the suit are ended so far as regards the client.

No advocate of any High Court established by Royal Charter shall be required to present any document empowering him to act.

40. Processes served on the pleader of any party

or left at the office or ordinary residence of such pleader, relative to a suit or appeal,

and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents; and, unless the Court otherwise directs, shall be as effectual for all purposes in relation to the suit or appeal as if the same had been given to or served on the party in person.

41. Besides the recognized agents described in section 37, any person residing within the jurisdiction

of the Court may be appointed an agent to accept service of process.

Such appointment may be special or general and

shall be made by an instrument in writing signed by the principal, and such instrument, or, if the appointment be general, a duly attested copy thereof, shall be filed in court.

CHAPTER IV.

OF THE FRAME OF THE SUIT.

42. Every suit shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them.

43. Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

If a plaintiff omit to sue in respect of, or intentionally relinquish, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

A person entitled to more than one remedy in respect of the same cause of action may sue for all or any of his remedies; but if he omits (except with the leave of the Court obtained before the first hearing) to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action.

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years 1881 and 1882 is due and unpaid. A sues B only for the rent due for 1882. A shall not afterwards sue B for the rent due for 1881.

44. Rule a.—No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immovable property, or to obtain a declaration of title to immovable property, except—

(a) claims in respect of mesne profits or arrears of rent in respect of the property claimed,

(b) damages for breach of any contract under which the property or any part thereof is held, and

(c) claims by a mortgagee to enforce any of his remedies under the mortgage.

Rule b.—No claim by or against an executor,

administrator or heir as such, shall be joined with claims by or against him personally,

unless the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir, or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents.

45. Subject to the rules contained in chapter II and in section 44, the plaintiff may unite in the same suit several causes of action

against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant, or the same defendants jointly, may unite such causes of action in the same suit.

But if it appear to the Court that any such causes of action cannot be conveniently tried or disposed of together, the Court may, at any time before the first hearing, of its own motion or on the application of any defendant, or at any subsequent stage of the suit, if the parties agree, order separate trials of any such causes of action to be had, or make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit, whether or not an order has been made under the second paragraph of this section.

46. Any defendant alleging that the plaintiff has united in the same suit several causes of action which cannot be conveniently disposed of in one suit may at any time before the first hearing, or, where issues are settled, before any evidence is recorded, apply to the Court for an order confining the suit to such of the causes of action as may be conveniently disposed of in one suit.

47. If, on the hearing of such application, it appears to the Court that the causes of action are such as cannot all be conveniently disposed of in one suit, the Court may order any of such causes of action to be excluded, and may direct the plaint to be amended accordingly, and may make such order as to costs as may be just.

Every amendment made under this section shall be attested by the signature of the Judge.

CHAPTER V.

OF THE INSTITUTION OF SUITS.

48. Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

49. The plaint must be distinctly written in the language of the Court; provided that, if such language is not English, the plaint may (with the permission of the Court) be written in English; but in such case, if the defendant so require, a translation of the plaint into the language of the Court shall be filed in court.

50. The plaint must contain the following particulars:—

(a) the name of the Court in which the suit is brought;

(b) the name, description and place of residence of the plaintiff;

(c) the name, description and place of residence of the defendant, so far as they can be ascertained;

(d) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(e) a demand of the relief which the plaintiff claims; and

(f) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

If the plaintiff seeks the recovery of money, the plaint must state the precise amount, so far as the case admits.

In a suit for mesne profits, and in a suit for the amount which will be found due to the plaintiff on taking unsettled accounts between him and the defendant, the plaint need only state approximately the amount sued for.

When the plaintiff sues in a representative character, the plaint should shew, not only that he has an actual existing interest in the subject-matter but that he has taken the steps necessary to enable him to institute a suit concerning it.

Illustrations.

(a) A sues as B's executor. The plaint must state that A has proved B's will.

(b) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(c) A sues as guardian of D, a Muhammadan minor. A is not D's guardian according to Muhammadan law and usage. The plaint must state that A has been specially appointed D's guardian.

The plaint must shew that the defendant is or claims to be interested in the subject matter, and that he is liable to be called upon to answer the plaintiff's demand.

Illustration.

A dies, leaving B his executor, C his legatee, and D a debtor to A's estate. C sues D to compel him to pay his debt in satisfaction of C's legacy. The plaint must shew that B has causelessly refused to sue D, or that B and D have colluded for the purpose of defrauding C, or other such circumstances rendering D liable to C.

If the cause of action arose beyond the period ordinarily allowed by any law for instituting the suit, the plaint must shew the ground upon which exemption from such law is claimed.

51. The plaint shall be signed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

Provided that if the plaintiff is, by reason of absence or for other good cause, unable to sign

the plaint, it may be signed by any person duly authorized by him in this behalf.

52. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to matters stated on information and belief, and that as to those matters he believes it to be true.

Contents of verification. The verification shall be signed and attested. The verification shall be signed by the person making it.

53. The plaint may, at the discretion of the Court and at or before the first hearing, be rejected, returned for amendment within a time to be fixed by the Court, or amended then and there, upon such terms as to the payment of costs occasioned by the amendment as the Court thinks fit,

When plaint may be rejected, returned for amendment, or amended. (a) if it does not state correctly and without prolixity the several particulars hereinbefore required to be specified therein; or

(b) if it contains any particulars other than those so required; or

(c) if it is not signed and verified as hereinbefore required; or

(d) if it does not disclose a cause of action; or

(e) if it is not framed in accordance with section 42; or

(f) if it is wrongly framed by reason of non-joinder or misjoinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same suit:

Provided that a plaint cannot be altered so as to convert a suit of one character into a suit of another and inconsistent character.

When a plaint is amended, the amendment shall be attested by the signature of the Judge.

Attestation of amendment. **54** The plaint shall be rejected in the following cases:—

(a) if the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so:

(b) if the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so:

(c) if the suit appears from the statement in the plaint to be barred by any positive rule of law:

(d) if the plaint, having been returned for amendment within a time fixed by the Court, is not amended within such time.

55. When a plaint is rejected, the Judge shall Procedure on rejection of plaint. record with his own hand an order to that effect with the reason for such order.

56. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

57. The plaint shall be returned to be presented to the proper Court in the following cases:

(a) if a suit has been instituted in a Court whose grade is lower or higher than that of the Court competent to try it, where such Court exists, or where no option as to the selection of the Court is allowed by law:

(b) if, in a suit relating to immoveable property, but not coming under the proviso to section 16, it appears that no part of such property is situate within the local limits of the jurisdiction of the Court to which the plaint is presented:

(c) if, in any other case, it appears that the cause of action did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

On returning a plaint, the Judge shall, with Procedure on returning plaint. his own hand, endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reason for returning it.

58. The plaintiff shall endorse on the plaint, or Procedure on admitting plaint. annex thereto, a memorandum of the documents (if any) which he has produced along with it; and, if the plaint be admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permits him to present a like number of concise statements of the nature of the claim made, or of the relief or remedy required, in the suit, in which case he shall present such statements.

If the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

The chief ministerial officer of the Court shall sign such memorandum and copies or statements if, on examination, he finds them to be correct.

The Court shall also cause the particulars mentioned in section 50 to be entered in a book to be kept

Register of suits.

for the purpose and called the Register of civil suits. Such entries shall be numbered in every year according to the order in which the plaint is admitted.

59. If a plaintiff sues upon a document in his possession or power, he shall produce it in court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaintiff.

Production of document on which plaintiff sues. Delivery of document or copy.
If he rely on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

60. In the case of any such document not in his possession or power, he shall, if possible, state in whose possession or power it is.

61. In case of any suit founded upon a negotiable instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may make such decree as it would have made if the plaintiff had produced the instrument in court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

62. If the document on which the plaintiff sues be an entry in a shop-book or other book in his possession or power, the plaintiff shall produce the book at the time of filing the plaint, together with a copy of the entry on which he relies.

The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification; and, after examining and comparing the copy with the original and attesting the copy if found correct, shall return the book to the plaintiff and cause the copy to be filed.

63. A document which ought to be produced in court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

Nothing in this section applies to documents produced for cross-examination of the defendant's witnesses, or in answer to any case set up by the defendant, or handed to a witness merely to refresh his memory.

CHAPTER VI.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

64. When the plaint has been registered, and the copies or concise statements required by section 58 have been filed, a summons may be issued to each defendant to appear and answer the claim on a day to be therein specified,

- (a) in person, or
- (b) by a pleader duly instructed and able to answer all material questions relating to the suit, or
- (c) by a pleader accompanied by some other person able to answer all such questions.

Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court:

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

65. Every such summons shall be accompanied with one of the copies or concise statements mentioned in section 58.

66. If the Court sees reason to require the personal appearance of the defendant, the summons shall order him to appear in person in court on the day therein specified.

If the Court sees reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance.

67. No party shall be ordered to appear in person unless he resides

(a) within the local limits of the Court's ordinary original jurisdiction, or

(b) without such limits and at a place less than fifty, or, where there is railway communication for five-sixths of the distance between the place where he resides and the place where the Court is situate, two hundred miles from the court-house.

68. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit; and the summons shall contain a direction accordingly:

Provided that, in every suit heard by Courts of Small Causes, the summons shall be for the final disposal of the suit.

69. The day for the appearance of the defendant shall be fixed by the Court with reference to its current business, the place of residence of the defendant and the time necessary

for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

What shall be deemed 'sufficient time' must be determined with reference to the circumstances of the case.

70. The summons to appear and answer shall order the defendant to produce any document in his possession or power, containing evidence relating to the merits of the plaintiff's case, or upon which the defendant intends to rely in support of his case.

71. When the summons is for the final disposal of the suit, it shall direct the defendant to produce, on the day fixed for his appearance, the witnesses upon whose evidence he intends to rely in support of his case.

Service of Summons.

72. The summons shall be delivered to the proper officer of the Court, to be served by him or one of his subordinates.

73. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.

74. When there are more defendants than one, service of the summons shall be made on each defendant:

Provided that, if the defendants are partners, and the suit relates to a partnership transaction or to an actionable wrong in respect of which relief is claimable from the firm, the service may be made, unless the Court directs otherwise either (a) on one defendant for himself and for the other defendants, or (b) on any person having the management of the business of the partnership at the principal place, within the local limits of the Court's ordinary original civil jurisdiction, of such business.

75. Whenever it may be practicable, the service shall be made on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

76. In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons issues, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

For the purpose of this section, the master of a ship is the agent of his owner or charterer.

77. In a suit to obtain relief respecting, or compensation for wrong to, immovable property, if the service cannot be made on the defendant in person, and the defendant have no agent empowered to accept the service, it may be made on any agent of the defendant in charge of the property.

78. If in any suit the defendant cannot be found and if he have no agent empowered to accept the service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this section.

79. When the serving-officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

80. If the defendant or other person refuses to sign the acknowledgment,

or if the serving-officer cannot find the defendant, and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

the serving officer shall affix a copy of the summons on the outer door of the house in which the defendant ordinarily resides and then return the original to the Court from which it issued, with a return endorsed thereon or annexed thereto, stating that he has so affixed the copy and the circumstances under which he did so.

81. The serving-officer shall, in all cases in which the summons has been served under section 79, endorse or annex, or cause to be endorsed or annexed, on or to the original summons, the time when and the manner in which the summons was served.

82. When a summons is returned under section 80, the Court shall examine the serving-officer on oath touching his proceedings, and may make such further enquiry in the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding the service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and

also upon some conspicuous part of the house, if any, in which the defendant is known to have last resided, or in such other manner as the Court thinks fit.

83. The service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

84. Whenever service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

85. If the defendant resides within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent resident within the local limits of the jurisdiction of the latter Court empowered to accept the service of the summons, such Court shall send the summons, either by one of its officers or by post, to any Court, not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be conveniently served, and shall fix such time for the appearance of the defendant as the case may require.

The Court to which the summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court, and shall then return the summons to the Court from which it originally issued, together with the record (if any) made under this paragraph.

86. Whenever any process issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such town, it shall be sent to the Court of Small Causes within whose jurisdiction the process is to be served,

and such Court of Small Causes shall deal with such process in the same manner as if the process had been issued by itself,

and shall then return the process to the Court from which it issued.

87. If the defendant be in jail, the summons shall be delivered to the officer in charge of the jail in which the defendant is confined, and such officer shall cause the summons to be served upon the defendant.

The summons shall be returned to the Court from which it issued, with a statement of the service endorsed thereon and signed by the officer in charge of the jail and by the defendant.

88. If the jail in which the defendant is confined is not in the district in which the suit is instituted, the summons may be sent by post or otherwise to the officer in charge of such jail, and such officer shall cause the summons

to be served upon the defendant, and shall return the summons to the Court from which it issued, with a statement of the service endorsed thereon, and signed as provided in section 87.

89. If the defendant resides out of British India, and has no agent in British India empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing, and forwarded to him by post if there be postal communication between such place and the place where the Court is situate.

90. If there be a British Resident or Agent of Government in or for the territory in which the defendant resides, the summons may be sent to such Resident or Agent, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident or Agent returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be conclusive evidence of the service.

91. The Court may, notwithstanding anything hereinbefore contained, substitute for the summons a letter signed by the Judge or such officer as he appoints in this behalf, when the defendant is, in the opinion of the Court, of a rank which entitles him to such mark of consideration.

The letter shall contain all the particulars required to be stated in the summons, and, subject to the provisions contained in section 92, shall be treated in all respects as a summons.

92. When a letter is so substituted for a summons, it may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; unless the defendant has an agent empowered to accept service of summons, in which case the letter may be delivered or sent to such agent.

Service of Process.

93. Every process issued under this Code shall be served at the expense of the party on whose behalf it is issued, unless the Court otherwise directs.

The court-fee leviable for such service shall be levied within a time to be fixed by the Court before the process is issued.

94. All notices and orders required by this Code to be given to or served on any person shall be in writing, and shall be served in the manner hereinbefore provided for the service of summons.

Postage.

95. Postage, where chargeable on any notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed by the Court before the communication is forwarded :

Provided that the Local Government, with the previous sanction of the Governor General in Council, may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

96. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the court-house in person or by their respective pleaders, and the suit shall then be heard, unless the hearing be adjourned to a future day fixed by the Court.

97. If, on the day so fixed for the defendant to appear and answer, it be found that the summons has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee leviable for such service, the Court may order that the suit be dismissed :

Provided that no such order shall be passed, although the summons has not been served upon the defendant, if, on the day fixed for him to appear and answer, he attends in person or by agent, when he is allowed to appear by agent.

98. If on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit is adjourned, neither party appears, the suit shall be dismissed, unless the Judge, for reasons to be recorded under his hand, otherwise directs.

99. Whenever a suit is dismissed under section 97 or section 98, the plaintiff may (subject to the law of limitation) bring a fresh suit; or if, within the period of thirty days from the date of the order dismissing the suit, he satisfies the Court that there was a sufficient excuse for his not paying the court-fee required within the time allowed for the service of the summons, or for his non-appearance, as the case may be, the Court may restore the suit to its file. may be, the Court shall pass an order to set aside the dismissal and appoint a day for proceeding with the suit.

99A. If, after a summons has, whether before or after the first day of June, 1882, been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails for a period of one year from such return to apply for the issue of a fresh summons and to satisfy the Court that he has used his best endeavours to discover the residence of the defendant who has not been served, or that such defendant is avoiding service of process, the Court may dismiss the suit as against such defendant.

In such case the plaintiff may (subject to the law of limitation) bring a fresh suit.

100. If the plaintiff appears and the defendant does not appear, the procedure shall be as follows :

(a) if it is proved that the summons was duly served, the Court may proceed *ex parte* :

(b) if it is not proved that the summons was duly served, the Court shall direct a second summons to be issued and served on the defendant :

(c) if it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

If it is owing to the plaintiff's default that the summons was not served in sufficient time, the Court shall order him to pay the costs occasioned by such postponement.

101. If the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

102. If the defendant appears and the plaintiff does not appear, the Court shall dismiss the suit, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

103. When a suit is wholly or partially dismissed under section 102, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside; and, if it be proved that he was prevented by any

sufficient cause from appearing when the suit was called on for hearing, the Court shall set aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

No order shall be made under this section unless the plaintiff has served the defendant with notice in writing of his application.

104. If, on the day fixed for the hearing of a suit against a defendant residing out of British India, who has no agent empowered to accept service of summons, or on any day to which the hearing has been adjourned, the defendant does not appear, the plaintiff may apply to the Court for permission to proceed with his suit, and the Court may direct that the plaintiff be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

105. If there be more plaintiffs than one, and one or more of them appear, and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way as if all the plaintiffs had appeared, and pass such order as it thinks fit.

106. If there be more defendants than one, and one or more of them appear, and the others do not appear, the suit shall proceed, and the Court shall, at the time of passing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

107. If a plaintiff or defendant, who has been ordered to appear in person under the provisions of section 60 or section 436, does not appear in person, or shew sufficient cause to the satisfaction of the Court for failing so to appear, he shall be subject to all the provisions of the foregoing sections applicable to plaintiffs and defendants, respectively, who do not appear.

Of setting aside Decrees ex parte.

108. In any case in which a decree is passed *ex parte* against a defendant, he may apply to the Court by which the decree was made for an order to set it aside ;

and if he satisfies the Court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the decree upon such terms as to costs, payment into court or otherwise, as it thinks fit, and shall appoint a day for proceeding with the suit.

109. No decree shall be set aside on any such application as aforesaid, unless notice thereof in writing has been served on the opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

110. The parties may, at any time before or at the first hearing of the suit, tender written statements of their respective cases, and the Court shall receive such statements and place them on the record.

111. If in a suit for the recovery of money the defendant claims to set-off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, and if in such claim of the defendant against the plaintiff both parties fill the same character as they fill in the plaintiff's suit, the defendant may, at the first hearing of the suit, but not afterwards unless permitted by the Court, tender a written statement containing the particulars of the debt sought to be set-off.

The Court shall thereupon inquire into the same, and if it finds that the case fulfils the requirements of the former part of this section, and that the amount claimed to be set-off does not exceed the pecuniary limits of its jurisdiction, the Court shall set-off the one debt against the other.

Such set-off shall have the same effect as a plaintiff in a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original and on the cross claim ; but it shall not affect the lien, upon the amount decreed, of any pleader in respect of the costs payable to him under the decree.

Illustrations.

(a) A bequeaths Rs. 2,000 to B, and appoints C his executor and residuary legatee. B dies and D takes out administration to B's effects. C pays Rs. 1,000 as surety for D. Then D sues C for the legacy. C cannot set-off the debt of Rs. 1,000 against the legacy, for neither C nor D fills the same character with respect to the legacy as they fill with respect to the payment of the Rs. 1,000.

(b) A dies intestate and in debt to B. C takes out administration to A's effects, and B buys part of the effects from C. In a suit for the purchase-money by C against B, the latter cannot set-off the debt against the price, for C fills two different characters, one as the vendor to B, in which he sues B, and the other as representative to A.

(c) A sues B on a bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set-off. The amount not being ascertained cannot be set-off.

(d) A sues B on a bill of exchange for Rs. 500. B holds a judgment against A for Rs. 1,000. The two claims being both definite pecuniary demands may be set-off.

(e) A sues B for compensation on account of a trespass. B holds a promissory note for Rs. 1,000 from A and claims to set-off that amount against any sum that A may recover in the suit. B may do so, for as soon as A recovers, both sums are definite pecuniary demands.

(f) A and B sue C for Rs. 1,000. C cannot set-off a debt due to him by A alone.

(g) A sues B and C for Rs. 1,000. B cannot set-off a debt due to him alone by A.

(h) A owes the partnership-firm of B and C Rs. 1,000. B dies leaving C surviving. A sues C for a debt of Rs. 1,500 due in his separate character. C may set-off the debt of Rs. 1,000.

112. Except as provided in the last preceding section, no written statement shall be received after the first hearing of the suit :

Provided that the Court may at any time require a written statement, or additional written statement, from any of the parties, and fix a time for presenting the same :

Provided also that a written statement, or an additional written statement, may, with the permission of the Court, be received at any time for the purpose of answering written statements so required and presented.

113. If any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pass a decree against him, or make such order in relation to the suit as it thinks fit.

114. Written statements shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as much as possible to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he either admits or believes he will be able to prove.

Every such statement shall be divided into paragraphs, numbered consecutively, and each paragraph containing as nearly as may be a separate allegation.

115. Written statements shall be signed and verified in the manner hereinbefore provided for signing and verifying plaints, and no written statement shall be received unless it be so signed and verified.

116. If it appears to the Court that any written statement, whether called for by the Court or spontaneously tendered, is argumentative or prolix, or contains matter irrelevant to the suit, the Court may amend it then and there, or may, by an order to be endorsed thereon, reject the same, or return it to the party by whom it was made for amendment within a time to be fixed by the Court, imposing such terms as to costs or otherwise as the Court thinks fit.

When any amendment is made under this section, the Judge shall attest it by his signature.

When a statement has been rejected under this section, the party making it shall not present another written statement, unless it be expressly called for or allowed by the Court.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. At the first hearing of the suit, the Court shall ascertain from the defendant or his pleader whether he admits or denies the allegations of fact made in the plaint, and shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

118. At the first hearing of the suit, or at any subsequent hearing, any party, or companion of party appearing in person or himself or his pleader, present in Court, or any person able to answer any material questions relating to the suit by whom such party or his pleader is accompanied, may be examined orally by the Court; and the Court may, if it thinks fit, put in the course of such examination questions suggested by either party.

119. The substance of the examination shall be reduced to writing by the Judge, and shall form part of the record.

120. If the pleader of any party who appears by a pleader refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall appear in person on such day.

If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pass a decree against him, or make such order in relation to the suit as it thinks fit.

CHAPTER X.

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

121. Any party may at any time by leave of the Court deliver through the Court interrogatories in

writing for the examination of the opposite party, or where there are more opposite parties than one, any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer :

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the Court, and that no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered a written statement and such statement has been received and placed on the record.

122. Interrogatories delivered under section 121 shall be served on the pleader (if any) of the party interrogated, in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80, 81 and 82 shall, in the latter case, apply so far as may be practicable.

123. The Court, in adjusting the costs of the suit, shall, at the instance of any party, inquire or cause inquiry to be made into the propriety of delivering such interrogatories; and if it thinks that such interrogatories have been delivered unreasonably, vexatiously or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

124. If any party to a suit be a body corporate or a joint stock company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply to the Court for an order allowing him to deliver interrogatories to any member or officer of such corporation, company or body, and an order may be made accordingly.

125. Any party called upon to answer interrogatories, whether by himself or by any such member or officer, may refuse to answer any interrogatory on the ground that it is irrelevant, or is not put *bona fide* for the purposes of the suit, or that the matter inquired after is not sufficiently material at that stage of the suit, or on any other like ground.

126. Interrogatories shall be answered by affidavit to be filed in court within ten days from the service thereof or within such further time as the Judge may allow.

127. If any person interrogated omits or refuses to answer, or answers insufficiently, any interrogatory, the party interrogating may apply to the Court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further either by affidavit or

by *viva voce* examination as the Judge may direct : Provided that the Judge shall not require an answer to any interrogatory which in his opinion need not have been answered under section 125.

128. Either party may, by a notice through the Court, within a reasonable time not less than ten days before the hearing, require the other party to admit (saving all just exceptions to the admissibility of such document in evidence) the genuineness of any document material to the suit.

The admission shall also be made in writing signed by the other party or his pleader and filed in court.

If such notice be not given, no costs of proving such document shall be allowed, unless the Judge otherwise orders.

If such notice is not complied with within four days after its being served, and the Judge thinks it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever may be the result of the suit.

129. The Court may, at any time during the pendency therein of any suit, order any party to the suit to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the suit, and any party to the suit may, at any time before the first hearing, apply to the Court for a like order.

Every affidavit made under this section shall specify which, if any, of the documents therein mentioned the declarant objects to produce, together with the grounds of such objection.

130. The Court may, at any time during the pendency therein of any suit, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such suit or proceeding as the Court thinks right; and the Court may deal with such documents when produced in such manner as appears just.

131. Any party to a suit may at any time before or at the hearing thereof give notice through the Court to any other party to produce any specified document for the inspection of the party giving such notice or of his pleader, and to permit such party or pleader to take copies thereof.

No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in such suit, unless he satisfies the Court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with such notice.

132. The party to whom such notice is given shall, within ten days from the receipt thereof, deliver through the Court to the party giving the same a notice stating a time within three days from such delivery at which the documents, or such of them as he does not object to produce, may be inspected at his pleader's office or some other convenient place, and stating which, if any, of the documents he objects to produce, and on what grounds.

133. If any party served with notice under section 131 omits to give notice of inspection, or objects to give inspection, or names an inconvenient place for inspection, the party desiring it may apply to the Court for an order of inspection.

134. Except in the case of documents referred to in the plaint, written statement or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit shewing (a) of what documents inspection is sought, (b) that the party applying is entitled to inspect them, and (c) that they are in the possession or power of the party against whom the application is made.

135. If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof, and if the Court is satisfied that the right to such discovery or inspection depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any such issue or question should be determined before deciding upon the right to the discovery or inspection, the Court may order that the issue or question be determined first and reserve the question as to the discovery or inspection.

136. If any party fails to comply with any order under this chapter, to answer interrogatories or for discovery, production or inspection, which has been duly served, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not appeared and answered;

and the party interrogating or seeking discovery, production or inspection may apply to the Court for an order to that effect, and the Court may make such order accordingly.

Any party failing to comply with any order under this chapter, to answer interrogatories or for discovery, production or inspection, which has been served personally upon him, shall also be deemed guilty of an offence under section 188 of the Indian Penal Code.

137. The Court may of its own accord, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

Every application made under this section shall (unless the Court otherwise directs) be supported by an affidavit of the applicant or his pleader, shewing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

Nothing contained in this section shall be deemed to enable the Court to use in evidence any document which under the Indian Evidence Act, 1872, would be inadmissible in the suit.

138. The parties or their pleaders shall bring with them and have in readiness at the first hearing of the suit, to be produced when called for by the Court, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in court, and all documents which the Court at any time before such hearing has ordered to be produced.

139. No documentary evidence in the possession or power of any party which should have been, but has not been, produced in accordance with the requirements of section 138, shall be received at any subsequent stage of the proceedings unless good cause be shown to the satisfaction of the Court for the non-production thereof. And the Judge receiving any such evidence shall record his reasons for so doing.

140. The Court shall receive the documents respectively produced by the parties at the first hearing, provided that the documents produced by each party be accompanied by an accurate list thereof prepared in such form as the High Court may from time to time direct.

The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

141. No document shall be placed on the record unless it has been proved or admitted in accordance with the law of evidence for the time being in force. Every document so proved or admitted shall be endorsed with the number and title of the suit, the name of the person producing it, and the date on which it was produced. The Judge shall then endorse with his own hand a

statement that it was proved against or admitted by (as the case may be) the person against whom it is used. The document shall then be filed as part of the record :

Provided that, if the document be an entry in a shop-book or other book, the party on whose behalf such book is produced may furnish a copy of the entry, which may be endorsed as aforesaid, and shall be filed as part of the record, and the Court shall mark the entry, and shall then return the book to the person producing it.

All documents produced at the first hearing and not so proved or admitted shall be returned to the parties respectively producing them.

142. When a document so proved or admitted is relied on as evidence by either party, but the Court considers it inadmissible, it shall be further endorsed with the addition of the word "rejected," and the endorsement shall be signed by the Judge.

The document shall then be returned to the party who produced it.

143. Notwithstanding anything contained in sections 62, 141 and 142, the Court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

144. In suits in which an appeal is not allowed, when the suit has been disposed of, and in suits in which an appeal is allowed, when the time for preferring an appeal from the decree has elapsed, or, if an appeal has been preferred, then after the appeal has been disposed of, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit, and placed on the record, shall, unless the document is impounded under section 143, be entitled to receive back the same :

Provided that a document may be returned at any time before either of such events, if the person applying for such return delivers to the proper officer a certified copy of such document to be substituted for the original :

Provided also that no document shall be returned which, by force of the decree, has become void or useless.

On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving it, in a receipt-book to be kept for the purpose.

145. The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

146. Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue.

Each material proposition affirmed by one party and denied by the other must form the subject of a distinct issue.

Issues are of two kinds : (a) issues of fact, (b) issues of law.

At the first hearing of the suit, the Court shall, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to the Court to depend.

When issues both of law and of fact arise in the same suit, and the Court is of opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

Nothing in this section requires the Court to frame and record issues when the defendant at the first hearing of the suit makes no defence.

147. The Court may frame the issues from all allegations from which or any of the following issues may be framed. materials :—

(a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties or persons ;

(b) allegations made in the plaint or in the written statements (if any) tendered in the suit, or in answer to interrogatories delivered in the suit ;

(c) the contents of documents produced by either party.

148. If the Court be of opinion that the issues cannot be correctly framed without the examination of some person not before the Court, or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may (subject to the rules contained in the Indian Evidence Act) compel the attend-

ance of any person or the production of any document by the person in whose hands it may be, by summons or other process.

149. The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the controversy between the parties shall be so made or framed.

The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

150. When the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing

(a) that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject to some liability specified in the agreement,

(b) that upon such finding some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct, or

(c) that upon such finding one or more of the parties shall do or abstain from doing some particular act, specified in the agreement, and relating to the matter in dispute.

151. If the Court be satisfied, after making such inquiry as it deems proper, Court, if satisfied that agreement was executed in good faith, may pronounce judgment.

(a) that the agreement was duly executed by the parties,

(b) that they have a substantial interest in the decision of such question as aforesaid, and

(c) that the same is fit to be tried and decided, it may proceed to record and try the issue, and state its finding or opinion thereon in the same manner as if the issue had been framed by the Court;

and may, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement;

and upon the judgment so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

152. If at the first hearing of a suit it appears that the parties are not at issue on any question of law or fact.

or of fact, the Court may at once pronounce judgment.

153. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff, the Court may at once pronounce judgment for or against such defendant, and the suit shall proceed only against the other defendants.

154. When the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court be satisfied that no further argument or evidence than the parties can at once supply is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues,

and, if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit:

Provided that, where the summons has been issued for the settlement of issues only, the parties or their pleaders are present and none of them object.

If the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence, or for such further argument, as the case requires.

155. If the summons has been issued for the final disposal of the suit, and either party fails without sufficient cause to produce the evidence on which he relies, the Court may at once pronounce judgment,

or may, if it thinks fit, after framing and recording issues under section 116, adjourn the suit for the production of such evidence as may be necessary to its decision upon such issues.

CHAPTER XIII.

OF ADJOURNMENTS.

156. The Court may, if sufficient cause be shown, at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit.

In all such cases the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing to be necessary for reasons to be recorded by the Judge with his own hand.

157. If, on any day to which the hearing of the suit is adjourned, the parties fail to appear on day or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Chapter VII, or make such other order as it thinks fit.

158. If any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. The parties may, after the summons has been delivered for service on the defendant, whether it be for the settlement of issues only, or for the final disposal of the suit, obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such settlement or disposal, as the case may be, summonses to persons whose attendance is required either to give evidence or to produce documents.

160. The party applying for a summons shall, before the summons is granted and within a period to be fixed by the Court, pay into court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned, in passing to and from the court in which he is required to attend, and for one day's attendance.

If the Court be subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) laid down by competent authority.

161. The sum so paid into Court shall be tendered to the person summoned, at the time of serving the summons, if it can be served personally.

162. If it appear to the Court or to such officer as it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses, the Court may direct such

further sum to be paid to the person summoned as appears to be necessary on that account; and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

If it be necessary to detain the person summoned for a longer period than one day, the Court may, from time to time, order the party at whose instance he was summoned to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of the party at whose instance he was summoned; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

163. Every summons for the attendance of a person to give evidence or to produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce shall be described in the summons with reasonable accuracy.

164. Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

165. Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his actual possession or power.

166. Every summons to a person to give evidence or produce a document shall be served as nearly as may be in manner hereinbefore prescribed for the service of summons on the defendant; and the rules contained in Chapter VI as to proof of service shall apply in the case of all summonses served under this section.

167. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

168. If the serving-officer certify to the Court that the summons for the attendance of a person, either to give evidence or to produce a document, cannot be served, the Court shall examine the serving-officer on oath touching the non-service:

and upon being satisfied that such evidence or production is material, and that the person for whose attendance the summons has been issued is absconding or keeping out of the way for the purpose of avoiding the service of the summons, may issue a proclamation requiring him to attend to give evidence, or produce the document, at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door of the house in which he ordinarily resides.

If he does not attend at the time and place named in such proclamation, the Court may in its discretion, at the instance of the party on whose application the summons was issued, make an order for the attachment of the property of the person whose attendance is required, to such amount as the Court thinks fit, not exceeding the amount of the costs of attachment and of the fine which may be imposed under section 170:

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

169. If, on the attachment of his property, such person appears and satisfies the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

170. If such person does not appear, or, appearing, fails to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court may impose upon him such fine not exceeding five hundred rupees as the Court thinks fit, having regard to his condition in life and all the circumstances of the case, and may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of the said fine, if any:

Provided that, if the person whose attendance is required pays into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

171. Subject to the rules of this Code as to attendance and appearance and to the provisions of the Indian Evidence Act, 1872, if

the Court at any time thinks it necessary to examine any person other than a party to the suit and not named as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

172. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit must attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document must either attend to produce it, or cause it to be produced, at such time and place.

173. No person so summoned and attending shall depart unless and until—
When they may depart. (a) he has been examined or has produced the document and the Court has risen, or (b) he has obtained the Court's leave to depart.

174. If any person on whom a summons to give evidence or produce a document has been served fails to comply with the summons, or if any person so summoned and attending departs in contravention of section 173, the Court may order him to be arrested and brought before the Court:

Provided that no such order shall be made when the Court has reason to believe that the person so failing had a lawful excuse for such failure.

When any person so brought before the Court fails to satisfy it that he had a lawful excuse for not complying with the summons, the Court may sentence him to fine not exceeding five hundred rupees.

Explanation.—Non-payment or non-tender of a sum sufficient to defray the expenses mentioned in section 160 shall be deemed a lawful excuse within the meaning of this section.

If any person so apprehended and brought before the Court cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and on such bail or security being given, may release him.

175. If any person so failing to comply with a summons absconds or keeps out of the way, so that he cannot be apprehended and brought before the Court, the provisions of sections 168, 169 and 170 shall, *mutatis mutandis*, apply.

176. No one shall be bound to attend in person to give evidence or to be examined in Court unless he resides—

Persons bound to attend in person.

(a) within the local limits of its ordinary original jurisdiction, or

(b) without such limits and at a place less than fifty or (where there is railway-communication for five-sixths of the distance between the place where he resides and the place where the Court is situate) two hundred miles distant from the Court-house.

177. If any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence or to produce any document then and there in his actual possession or power, the Court may in its discretion either pass a decree against him, or make such order in relation to the suit as the Court thinks fit.

Consequence of refusal of party to give evidence when called on by Court.

178. Whenever any party to a suit is required to give evidence or to produce a document, the rules as to witnesses contained in this Code shall apply to him so far as they are applicable.

Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. On the day fixed for the hearing of the suit, or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

Statement and production of evidence by party having right to begin.

Explanation.—The plaintiff has the right to begin unless where the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

Rules as to right to begin.

180. The other party shall then state his case and produce his evidence (if any).

Statement and production of evidence by other party.

The party beginning is then entitled to reply.

Reply by party beginning.

Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party. In the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the

evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

181. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence, and under the personal direction and superintendence, of the Judge.

Witnesses to be examined in open Court.

182. In cases in which an appeal is allowed, the evidence of each witness shall be taken down in writing, in the language of the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties or their pleaders, and the Judge shall, if necessary, correct the same and shall sign it.

183. If the evidence is taken down under section 182 in a language different from that in which it was given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given.

184. In cases in which the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

185. Where English is not the language of the Court, but all the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object to have such evidence as is given in English taken down in English, the Judge may so take it down with his own hand.

186. The Court may of its own motion or on the application of any party or his pleader take down, or cause to be taken down, any particular question and answer, or any objection to any question, if there appear any special reason for so doing.

187. If any question put to a witness be objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it, together with the decision of the Court thereon.

188. The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

Remarks on demeanour of witnesses.

189. In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

190. If the Judge be rendered unable to make a memorandum as above required by this chapter, he shall cause the reason of such inability to be recorded, and shall cause the memorandum to be made in writing from his dictation in open Court.

Every memorandum so made shall form part of the record.

191. Where the Judge taking down any evidence, or causing any memorandum to be made under this chapter, dies or is removed from the Court before the conclusion of the suit, his successor may, if he thinks fit, deal with such evidence or memorandum as if he himself had taken it down or caused it to be made.

192. If a witness be about to leave the jurisdiction of the Court, or if other sufficient cause be shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may, upon the application of either party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner herein-before provided.

Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient, of the day fixed for the examination, shall be given to the parties.

The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and may then be read at any hearing of the suit.

193. The Court may at any stage of the suit recall any witness who has been examined and who has not departed in accordance with section 173, and may (subject to the provisions of the Indian Evidence Act, 1872) put such questions to him as the Court thinks fit.

CHAPTER XVI.

OF AFFIDAVITS.

194. Any Court of first instance and any appellate Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

195. Upon any application evidence may be given by affidavit, but the attendance of declarant for Court may at the instance of either party order the attendance for cross-examination of the declarant.

Such attendance shall be in Court unless the declarant is exempted under this Code from personal appearance in court, or the Court otherwise directs.

196. Affidavits shall be confined to such facts as the declarant is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that reasonable grounds thereof be set forth.

The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall (unless the Court otherwise directs) be paid by the party producing the same.

197. In the case of any affidavit under this Code—
(a) any Court or Magistrate, or

(b) any officer whom a High Court may appoint in this behalf, or

(c) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf, may administer the oath of the declarant.

CHAPTER XVII.

OF JUDGMENT AND DECREE.

198. The Court, after the evidence has been duly taken and the parties have been heard either in person or by their respective pleaders or recognized agents, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their pleaders.

199. A Judge may pronounce a judgment written by his predecessor but not pronounced.

200. The judgment shall be written in the language of the Court, or in English, or in the Judge's mother-tongue.

201. Whenever the judgment is written in any language other than that of the Court, the judgment shall, if any of the parties so

require, be translated into the language of the Court, and the translation shall also be signed by the Judge or such officer as he appoints in this behalf.

202. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it, and shall not be altered or added to, save to correct verbal errors or to supply some accidental defect not affecting a material part of the case, or on review.

203. The judgments of the Courts of Small Causes need not contain more than the points for determination and the decision thereupon.

The judgments of all other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

204. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons thereof, upon each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

205. The decree shall bear date the day on which the judgment was pronounced; and, when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree.

206. The decree must agree with the judgment: it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claims, as stated in the register, and shall specify clearly the relief granted or other determination of the suit.

The decree shall also state the amount of costs incurred in the suit, and by what parties and in what proportions such costs are to be paid.

If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error be found in the decree, the Court shall, of its own motion or on that of any of the parties, amend the decree so as to bring it into conformity with the judgment or to correct such error: provided that reasonable notice has been given to the parties or their pleaders of the proposed amendment.

207. When the subject-matter of the suit is immovable property, and such property is identified by boundaries or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers.

208. When the suit is for moveable property, if the decree be for the delivery of such property, it

shall also state the amount of money to be paid as an alternative if delivery cannot be had.

209. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

210. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments, with or without interest.

And after the passing of any such decree the Court may, on the application of the judgment-debtor and with the consent of the decree-holder, order that the amount decreed be paid by instalments on such terms as to the payment of interest, the attachment of the property of the defendant, or the taking of security from him, or otherwise, as it thinks fit:

Save as provided in this section and section 206, no decree shall be altered at the request of parties.

211. When the suit is for the recovery of possession of immoveable property yielding rent or other profit, the Court may provide in the decree for the payment of rent or mesne profits in respect of such property from the institution of the suit until the delivery of possession to the party in whose favour the decree is made, or until the expiration of three years from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

Explanation.—‘Mesne profits’ of property mean those profits which the person in wrongful possession of such property actually received, or might with ordinary diligence have received, therefrom, together with interest on such profits.

212. When the suit is for the recovery of possession of immoveable property and for mesne profits which have accrued on the property during a period prior to the institution of the suit, and the amount of such profits is disputed, the Court may either determine the amount by the decree itself, or may pass a decree for the property and direct an inquiry into the amount of mesne profits, and dispose of the same on further orders.

213. When the suit is for an account of any property and for its due administration under the de-

decree of the Court, the Court, before making the decree, shall order such accounts and inquiries to be taken and made, and give such other directions, as it thinks fit.

In the administration by the Court of the property of any person who dies after this Code comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being with respect to the estates of persons adjudged insolvent;

and all persons who in any such case would be entitled to be paid out of such property may come in under the decree for its administration, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

Applications under section 265 of the Indian Contract Act, 1872, shall be deemed to be suits within the meaning of this section.

214. When the suit is to enforce a right of pre-emption in respect of a particular sale of property, and the Court finds for the plaintiff, if the amount of purchase-money has not been paid into court, the decree shall specify a day on or before which it shall be so paid, and shall declare that on payment of such purchase-money, together with the costs (if any) decreed against him, the plaintiff shall obtain possession of the property, but that if such money and costs are not so paid, the suit shall stand dismissed with costs.

215. When the suit is for the dissolution of a partnership, the Court, before making its decree, may pass an order fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

215A. When a suit is for an account of pecuniary transactions between a principal and agent, and in all other suits not hereinbefore provided for, where it is necessary, in order to ascertain the amount of money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit.

216. If the defendant has set-off the amount of a debt against the claim of the plaintiff, and such set-off has been allowed, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

The decree of the Court with respect to any sum awarded to the defendant shall have the same effect, and be subject to the same rules in respect of appeal or otherwise, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

217. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

CHAPTER XVIII.

OF COSTS.

218. When disposing of any application under this Code, the Court may give to either party the costs of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

219. The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion.

220. The Court shall have full power to give and apportion costs of every application and suit in any manner it thinks fit, and the fact that the Court has no jurisdiction to try the case is no bar to the exercise of such power:

Provided that, if the Court directs that the costs of any application or suit shall not follow the event, the Court shall state its reasons in writing.

Every order relating to costs made under this Code and not forming part of a decree may be executed as if it were a decree for money.

221. The Court may direct that the costs payable to one party by another shall be set-off against a sum which is admitted or is found in the suit to be due from the former to the latter.

222. The Court may give interest on costs at any rate not exceeding six per cent. per annum, and may direct that costs, with or without interest, be paid out of, or charged upon, the subject-matter of the suit.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.

223. A decree may be executed either by the Court which passed it or by the Court to which it is sent for execution under the provisions hereinafter contained.

The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court,

(a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale of immoveable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

The Court which passed a decree may of its own motion send it for execution to any Court subordinate thereto.

The Court to which a decree is sent under this section for execution shall certify to the Court which passed it the fact of such execution, or, where the former Court fails to execute the same, the circumstances attending such failure.

If the decree has been passed in a case cognizable by a Court of Small Causes and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be, the copies and certificate respectively mentioned in clauses (a), (b) and (c) of section 224; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

If the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But, if the Court to which the decree is to be sent for execution is situate in a different district, the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

Procedure when Court desires that its own decree shall be executed by another Court.

224. The Court sending a decree for execution under section 223 shall send

(a) a copy of the decree;

(b) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted; and

(c) a copy of any order for the execution of the decree, and, if no such order has been made, a certificate to that effect.

225. The Court to which a decree is so sent shall cause such copies and certificate to be filed, without any further proof of the decree or order for execution, or of the copies thereof, or of the jurisdiction of the Court which passed it, unless the former Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

226. When such copies are so filed, the decree or order may, if the Court to which it is sent be the District Court, be executed by such Court or by any subordinate Court which it directs to execute the same.

227. If the Court to which the decree is sent for execution be a High Court, the decree shall be executed by such Court in the same manner as if it had been made by such Court in the exercise of its ordinary original civil jurisdiction.

228. The Court executing a decree sent to it under this chapter shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its orders in executing such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself.

229. A decree of any Court established by the authority of the Governor-General in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court by which it was made, may be executed in manner herein provided within the jurisdiction of any Court in British India.

B.—Of Application for Execution.

230. When the holder of a decree desires to enforce it, he shall apply to the Court which passed the decree or to the officer, if any, appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court, then to such Court or to the proper officer thereof.

The Court may in its discretion refuse execution at the same time against the person and property of the judgment-debtor.

Where an application to execute a decree for the payment of money or delivery of other property has been made under this section and granted, no subsequent application to execute the same decree shall be granted after the expiration of

twelve years from any of the following dates (namely) —

(a) the date of the decree sought to be enforced or of the decree (if any) on appeal affirming the same, or

(b) where the decree or any subsequent order directs any payment of money, or the delivery of any property, to be made at a certain date—the date of the default in making the payment or delivering the property in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent the Court from granting an application for execution of a decree after the expiration of the said term of twelve years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application.

Notwithstanding anything herein contained, proceedings may be taken to enforce any decree within three years after the passing of this Code, unless when the period prescribed for taking such proceedings by the law in force immediately before the passing of this Code shall have expired before the completion of the said three years.

231. If a decree has been passed jointly in favour of more persons than

Application by joint decree-holder.

one, any one or more of such persons, or his or their representatives, may apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the representative in interest of the deceased.

If the Court sees sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

232. If a decree be transferred by assignment

Application by transferee of decree.

in writing, or by operation of law, from the decree-holder to any other person, the transferee may apply for its execution to the Court which passed it; and, if that Court thinks fit, the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Provided as follows:—

(a) where the decree has been transferred by assignment, notice in writing of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to such execution:

(b) where a decree for money against several persons has been transferred to one of them, it shall not be executed against the others.

233. Every transferee of a decree shall hold the

Transferee to hold subject to equities enforceable against original holder.

same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

234. If a judgment-debtor dies before the decree has been fully executed,

If judgment-debtor die before execution, application may be made against his representative.

the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel the said representative to produce such accounts as it thinks fit.

235. The application for the execution of a

Contents of application for execution of decree.

decree shall be in writing verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars (namely)—

- (a) the number of the suit;
- (b) the names of the parties;
- (c) the date of the decree;
- (d) whether any appeal has been preferred from the decree;
- (e) whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree;
- (f) whether any and what previous applications have been made for execution of the decree and with what result;
- (g) the amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby;
- (h) the amount of costs, if any, awarded;
- (i) the name of the person against whom the enforcement of the decree is sought; and
- (j) the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

236. Whenever an application is made for the

Application for attachment of moveable property to be accompanied with inventory.

attachment of any moveable property belonging to the judgment debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

237. Whenever an application is made for the

Further particulars when application is for attachment of immoveable property.

attachment of any immoveable property belonging to the judgment-debtor, it shall contain at the foot a de-

scription of the property sufficient to identify it, and also a specification of the judgment-debtor's share or interest therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

Every such description and specification shall be verified in manner hereinbefore provided for the verification of plaints.

238. If the property be land registered in the Collector's office, the application for attachment shall be accompanied by an authenticated extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for such land, and the shares of the registered proprietors.

C.—Of staying Execution.

239. The Court to which a decree has been sent for execution under this chapter shall, upon sufficient cause being shewn, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was made, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto;

and in case the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution or discharge of such property or person pending the result of the application for such order.

240. Before passing an order under section 239 to stay execution, or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

241. No discharge under section 239 of the property or person of a judgment-debtor shall prevent it or him from being retaken in execution of the decree sent for execution.

242. Any order of the Court by which the decree was passed, or of such Court of appeal as aforesaid, in relation to the execution of such decree, shall be binding upon the Court to which the decree was sent for execution.

243. If a suit be pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court

may (if it think fit) stay execution on the decree, either absolutely or on such terms as it thinks fit, until the pending suit has been decided.

D.—Questions for Court executing Decree.

244. The following questions shall be determined by order of the Court by which the decree was made, or by separate suit (namely) —

(a) questions regarding the amount of any mesne profits as to which the decree has directed inquiry;

(b) questions regarding the amount of any mesne profits or interest which the decree has made payable in respect of the subject-matter of a suit, between the date of its institution and the execution of the decree, or the expiration of three years from the date of the decree;

(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree.

Nothing in this section shall be deemed to bar a separate suit for mesne profits accruing between the institution of the first suit and the execution of the decree therein, where such profits are not dealt with by such decree.

E.—Of the Mode of executing Decrees.

245. The Court, on receiving an application for the execution of a decree, shall ascertain whether such of the requirements of sections 235, 236, 237 and 238 as may be applicable to the case have been complied with; and if they have not been complied with, the Court may reject the application, or may allow it to be amended then and there, or within a time fixed by the Court. If the application be not so amended, it shall be rejected.

Every amendment made under this section shall be attested by the signature of the Judge.

When the application is admitted, the Court shall enter in the register of the suit a note of the application and the date on which it was made, and shall order execution of the decree according to the nature of the application:

Provided that, in the case of a decree for money, the value of the property attached shall, as nearly as may be, correspond with the amount for which the decree has been made.

246. If cross-decrees between the same parties for the payment of money be produced to the Court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

If the two sums be equal, satisfaction shall be entered upon both decrees.

Explanation I.—The decrees contemplated by this section are decrees capable of execution at the same time and by the same Court.

Explanation II.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

Explanation III.—This section does not apply unless

the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits; and

the sums due under the decrees are definite.

Illustrations.

(a) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(b) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this section.

(c) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this section.

247. When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party; but satisfaction for the smaller sum shall be entered on the decree.

When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

248. The Court shall issue a notice to the party

Notice to show cause against whom execution is why decree should not be applied for, requiring him to be executed. show cause, within a period to be fixed by the Court, why the decree should not be executed against him,

(a) if more than one year has elapsed between the date of the decree and the application for its execution, or

(b) if the enforcement of the decree be applied for against the legal representative of a party to the suit in which the decree was made:

Provided that no such notice shall be necessary

in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed, or of the last order against the party against whom execution is applied for, passed on any previous application for execution, or

in consequence of the application being against the legal representative of the judgment-debtor, if upon a previous application for execution against

the same person the Court has ordered execution to issue against him.

Explanation.—In this section the phrase "the Court" means the Court by which the decree was passed, unless the decree has been sent to another Court for execution, in which case it means such other Court.

249. If the person to whom notice is issued under the last preceding section does not appear, or does not shew cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

If he offers any objection to the enforcement of the decree, the Court shall consider such objection and pass such order as it thinks fit.

250. When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court, unless it sees cause to the contrary, shall issue its warrant for the execution of the decree.

251. Such warrant shall be dated the day on which it is issued, signed by the Judge or such officer as the Court appoints in this behalf, sealed with the seal of the Court, and delivered to the proper officer to be executed.

And a day shall be specified in such warrant on or before which it must be executed, and the proper officer shall endorse thereon the day and manner in which it was executed, or, if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

252. If the decree be against a party as the legal representative of a deceased person, and the decree be for money to be paid out of the property of the deceased, it may be executed by the attachment and sale of any such property:

If no such property remains in the possession of the judgment-debtor, and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by him, in the same manner as if the decree had been against him personally.

253. Whenever a person has, before the passing of a decree in an original suit, become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant.

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

254. Every decree or order directing a party to pay money, as compensation or costs, or as the alternative

Decree for money.

to some other relief granted by the decree or order, or otherwise, may be enforced by the imprisonment of the judgment-debtor, or by the attachment and sale of his property in manner hereinafter provided, or by both.

255. If the decree be for mesne profits or any other matter the amount of which in money is to be subsequently determined, the property of the judgment-debtor may, before the amount due from him under the decree has been ascertained, be attached as in the case of an ordinary decree for money.

Decree for mesne profits or other matter, amount of which to be subsequently ascertained.

256. When a decree is passed for a sum of money only, and the amount decreed does not exceed the sum of one thousand rupees, the Court may, when passing the decree, on the oral application of the decree-holder, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court, or against his moveable property within the same limits.

Power to direct immediate execution of decree for money not exceeding Rs. 1,000.

Modes of paying money under decree.

257. All money payable under a decree shall be paid as follows (namely)—

(a) into the Court whose duty it is to execute the decree; or

(b) out of Court to the decree holder; or

(c) otherwise as the Court which made the decree directs.

257A. Every agreement to give time for the satisfaction of a judgment-debt shall be void unless it is made for consideration and with the sanction of the Court which passed the decree, and such Court deems the consideration to be under the circumstances reasonable.

Agreement to give time to judgment-debtor.

Every agreement for the satisfaction of a judgment-debt, which provides for the payment, directly or indirectly, of any sum in excess of the sum due or to accrue due under the decree, shall be void unless it is made with the like sanction.

Agreement for satisfaction of judgment-debt.

Any sum paid in contravention of the provisions of this section shall be applied to the satisfaction of the judgment debt; and the surplus, if any, shall be recoverable by the judgment-debtor.

258. If any money payable under a decree is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or if any payment is made in pursuance of an agreement of the nature mentioned in section 257 A, the decree holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree.

Payment to decree-holder.

The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to issue a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after due service of such notice, the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

No such payment or adjustment shall be recognized by any Court unless it has been certified as aforesaid.

259. If the decree be for any specific moveable, or for any share in a specific moveable, or for the recovery of a wife, it may be enforced by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the imprisonment of the judgment-debtor, or by attaching his property or by both imprisonment and attachment if necessary.

Decrees for specific moveables, or recovery of a wife.

When any attachment under this section has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed under section 208, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance, if any, to the judgment-debtor on his application.

If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease to exist.

260. When the party against whom a decree is made for the specific performance of a contract, or for restitution of conjugal rights, or for the performance of or abstention from any other particular act, has been made, has had an opportunity of obeying the decree or injunction and has wilfully failed to obey it, the decree may be enforced by his imprisonment, or by the attachment of his property, or by both.

Decree for specific performance or restitution of conjugal rights.

When any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, the property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance, if any, to the judgment-debtor on his application.

If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of one year from the date of the attachment, no application to have the property sold has been made and granted, the attachment shall cease to exist.

261. If the decree be for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to

Decree for execution of conveyances, or endorsement of negotiable instruments.

comply with the decree, the decree-holder may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and deliver the same to the Court.

The Court shall thereupon cause the draft to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing stating that his objections, if any, thereto shall be made within such time (mentioning it) as the Court fixes in this behalf.

The decree-holder may also tender a duplicate of the draft to the Court for execution, upon the proper stamp-paper if a stamp is required by law.

On proof of such service, the Court, or such officer as it appoints in this behalf, shall execute the duplicate so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree and execute the duplicate so altered :

Provided that, if any party object to the draft so served as aforesaid, his objections shall, within the time so fixed, be stated in writing and argued before the Court, and the Court shall thereupon pass such order as it thinks fit, and execute, or alter and execute, the duplicate in accordance therewith.

262. The execution of a conveyance, or the endorsement of a negotiable instrument, by the Court under the last preceding section may be in the following form: "*C. D.*, Judge of the Court of (or as the case may be), for *A. B.*, in a suit by *E. F.* against *A. B.*," or in such other form as the High Court may from time to time prescribe, and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same.

263. If the decree be for the delivery of any immovable property, possession thereof shall be delivered over to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, and, if need be, by removing any person bound by the decree who refuses to vacate the property.

264. If the decree be for the delivery of any immovable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order

delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum, or in such other mode as is customary, at some convenient place, the substance of the decree in regard to the property :

Provided that, if the occupant can be found, a notice in writing containing such substance shall be served upon him, and in such case no proclamation need be made.

265. If the decree be for the partition or for the separate possession of a share of an undivided estate paying revenue to Government, the partition of the estate or the separation of the share shall be made by the Collector and according to the law, if any, for the time being in force for the partition, or the separate possession of shares, of such estates.

F.—Of Attachment of Property.

266. The following property is liable to attachment and sale in execution of a decree (namely), lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory-notes, Government-securities, bonds or other securities for money, debts, shares in the capital or joint stock of any railway, banking or other public Company or Corporation, and, except as hereinafter mentioned, all other saleable property, moveable or immovable, belonging to the judgment-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, and whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf :

Provided that the following particulars shall not be liable to such attachment or sale (namely)—

- (a) the necessary wearing apparel of the judgment-debtor, his wife and children ;
- (b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle as may in the opinion of the Court be necessary to enable him to earn his livelihood as such ;
- (c) the materials of houses and other buildings belonging to and occupied by agriculturists ;
- (d) books of account ;
- (e) mere rights to sue for damages ;
- (f) any right of personal service ;
- (g) stipends and gratuities allowed to military and civil pensioners of Government, and political pensions ;
- (h) the salary of a public officer or of any servant of a Railway Company, when such salary does not exceed twenty rupees *per mensem*, and one moiety of the salary of any such officer or servant when his salary exceeds that amount ;

- (i) the pay and allowances of persons to whom the Native Articles of War apply ;
- (j) the wages of labourers and domestic servants ;
- (k) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;
- (l) a right to future maintenance.

Explanation.—The particulars mentioned in clauses (g), (h), (i) and (j) are exempt from attachment or sale whether before or after they are actually payable :

Provided also that nothing in this section shall be deemed

- (a) to exempt the materials of houses and other buildings from attachment or sale in execution of decrees for rent, or
- (b) to affect the Army Act, 1881, or any similar law for the time being in force.

267. The Court may, of its own motion or on

Power to summon and examine persons as to property liable to be seized.

the application of the decree-holder, summon any person whom it thinks necessary, and examine him in respect to any property liable to be seized in satisfaction of the decree, and may require the person summoned to produce any document in his possession or power relating to such property, and, before issuing the summons of its own motion, shall declare the person on whose behalf the summons is so issued.

268. In the case of (a) a debt not secured by a

Attachment of debt, share and other property not in possession of judgment-debtor.

negotiable instrument, (b) a share in the capital of any public Company or Corporation, (c) other moveable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any Court, the attachment shall be made by a written order prohibiting,

(a) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court ;

(b) in the case of the share, the person in whose name the share may be standing, from transferring the same or receiving any dividend thereon ;

(c) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

A copy of such order shall be fixed up in some conspicuous part of the court-house, and another copy of the same shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the Company or Corporation, and in the case of the other moveable property (except as aforesaid), to the person in possession of the same.

A debtor prohibited under clause (a) of this section may pay the amount of his debt into Court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

In the case of the salary of a public officer or the servant of a Railway Company, the attachment shall be made by a written order requiring the officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

A copy of every such order shall be fixed up in a conspicuous part of the court-house and shall be served on the officer so required.

Every such officer may from time to time pay into court any portion so withheld, and such payment shall discharge the Government or the Railway Company, as the case may be, as effectually as payment to the judgment-debtor.

269. If the property be moveable property in

Attachment of moveable property in possession of judgment-debtor.

the possession of the judgment-debtor, other than the property mentioned in the first proviso to section 266, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof :

Provided that when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody will exceed its value, the proper officer may sell it at once.

The Local Government may from time to time

Power to make rules for the maintenance of attached live-stock.

make rules for the maintenance and custody, while under attachment, of live-stock and other moveable property, and the officer attaching property under this section shall, notwithstanding the provisions of the former part of this section, act in accordance with such rules.

270. If the property be a negotiable instrument

Attachment of negotiable instruments.

not deposited in a Court, nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought into court and held subject to the further orders of the Court.

271. No person executing any process under

Seizure of property in building.

this Code directing or authorizing seizure of moveable property shall enter any dwelling-house after sunset and before sunrise, or shall break open any outer door of a dwelling-house. But, when any such person has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe any such property to be :

Provided that, if the room be in the actual occu-

Seizure of property in zabandás.

pancy of a woman, who according to the customs of the country does not appear in public, the person executing the process shall give notice to her that she is at liberty to with-

draw; and after allowing a reasonable time for such woman to withdraw, and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

272. If the property be deposited in, or be in the custody of, any Court or public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Court from which the notice issues:

Provided that, if such property is deposited in, or is in the custody of, a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

273. If the property be a decree for money passed by the Court which passed the decree sought to be executed, the attachment shall be made by an order of the Court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

If the property be a decree for money passed by any other Court, the attachment shall be made by a notice in writing to such Court under the hand of the Judge of the Court which passed the decree sought to be executed, requesting the former Court to stay the execution of its decree until such notice is cancelled by the Court from which it was sent. The Court receiving such notice shall stay execution accordingly, unless and until

(a) the Court which passed the decree sought to be executed cancels the notice, or

(b) the holder of the decree sought to be executed applies to the Court receiving such notice to execute its own decree.

On receiving such application, the Court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

In the case of all other decrees the attachment shall be made by a notice in writing, under the hand of the Judge of the Court which passed the decree sought to be executed, to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way; and, when such decree has been passed by any other Court, also by sending to such Court a like notice in writing to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent. Every Court receiving such notice shall give effect to the same until it is so cancelled.

The holder of any decree attached under this section shall be bound to give the Court executing the same such information and aid as may reasonably be required.

274. If the property be immoveable, the attachment of immoveable property. The order shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from receiving the same from him by purchase, gift or otherwise.

The order shall be proclaimed at some place on or adjacent to such property by beat of drum or other customary mode, and a copy of the order shall be fixed up in a conspicuous part of the property and of the Court-house.

When the property is land paying revenue to Government, a copy of the order shall also be fixed up in the office of the Collector of the District in which the land is situate.

275. If the amount decreed with costs and all charges and expenses resulting from the attachment of any property be paid into Court, or if satisfaction of the decree be otherwise made through the Court, or if the decree is set aside or reversed, an order shall be issued, on the application of any person interested in the property, for the withdrawal of the attachment.

276. When an attachment has been made by actual seizure or by written order duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, mortgage or otherwise, and any payment of the debt or dividend, or a delivery of the share, to the judgment-debtor during the continuance of the attachment shall be void as against all claims enforceable under the attachment.

277. If the property attached is coin or currency-notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

278. If any claim be preferred to, or any objection be made to the attachment of, any property attached in execution of a decree, on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was a party to the suit:

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

If the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

279. The claimant or objector must adduce evidence to show that at the date of the attachment he had some interest in, or was possessed of, the property attached.

280. If upon the said investigation the Court is satisfied that, for the reason stated in the claim or objection, such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall pass an order for releasing the property, wholly or to such extent as it thinks fit, from attachment.

281. If the Court is satisfied that the property was, at the time it was attached, in possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

282. If the Court is satisfied that the property is subject to a mortgage or lien in favour of some person not in possession, and thinks fit to continue the attachment, it may do so, subject to such mortgage or lien.

283. The party against whom an order under section 280, 281 or 282 is passed may institute a suit to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be conclusive.

284. Any Court may order that any property which has been attached, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

285. Where property not in the custody of any Court has been attached in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof, shall be the Court

of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

G.—Of Sale and Delivery of Property.

(a) General Rules.

286. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and, except as provided in section 296, shall be made by public auction in manner hereinafter mentioned.

287. When any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court. Such proclamation shall state the time and place of sale, and shall specify as fairly and accurately as possible—

- (a) the property to be sold;
- (b) the revenue assessed upon the estate or part of the estate, when the property to be sold is an interest in an estate or a part of an estate paying revenue to Government;
- (c) any incumbrance to which the property is liable;
- (d) the amount for the recovery of which the sale is ordered; and
- (e) every other thing which the Court considers material for the purchaser to know in order to judge of the nature and value of the property.

For the purpose of ascertaining the matters so to be specified, the Court may summon any person whom it thinks necessary, and examine him in respect to any such matters, and require him to produce any document in his possession or power relating thereto.

The High Court shall, as soon as may be after this Code comes into force, make rules for the guidance of the Courts in exercise of their duties under this section. The High Court may from time to time alter any rules so made. All such rules shall be published in the local official Gazette and shall thereupon have the force of law. As regards his own Court and the Court of Small Causes at Rangoon, the Recorder of Rangoon shall be deemed to be a "High Court" within the meaning of this paragraph.

Nothing in this section shall apply to cases in which the execution of the decree has been transferred to the Collector.

288. No Judge or other public officer shall be answerable for any error, misstatement or omission in any proclamation under section 287, unless the same has been committed or made dishonestly.

289. The proclamation shall be made, in manner prescribed by section 274, on the spot where the property

is attached, and a copy thereof shall then be fixed up in the court-house and, in the case of land paying revenue to Government, also in the Collector's office.

If the Court so direct, such proclamation shall also be published in the local official Gazette and in some local newspaper, and the costs of such publication shall be deemed to be costs of the sale.

290. Except in the case of property mentioned in the proviso to section 269, no sale under this chapter

shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the copy of the proclamation has been fixed up in the court-house of the Judge ordering the sale.

291. The Court may in its discretion adjourn any sale under this chapter (other than a sale by the Collector)

to a specified day and hour, and the officer conducting any such sale may in his discretion adjourn the sale, recording his reasons for such adjournment: Provided that when the sale is made in, or within the precincts of, the court-house, no such adjournment shall be made without the leave of the Court. Whenever a sale is adjourned under this section for a longer period than seven days, a fresh proclamation under section 289 shall be made, unless the judgment-debtor consents to waive it.

Every such sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to such officer, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court that ordered the sale.

292. No officer having any duty to perform in connection with any sale under this chapter shall either directly or indirectly bid for, acquire or attempt to acquire, any interest in any property sold at such sale.

293. The deficiency of price (if any) which may happen on a re-sale under this Code by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court by the officer holding the sale,

and shall, at the instance of either the judgment-creditor or the judgment-debtor, be recoverable from the defaulter under the rules contained in this chapter for the execution of a decree for money.

294. No holder of a decree in execution of which property is sold shall, without the express permission of the Court, bid for or purchase the property.

When a decree-holder purchases with such permission, the purchase-money and the amount due on the decree may, if he so desires, be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.

When a decree-holder purchases, by himself or through another person, without such permission, the Court may, if it thinks fit, on the application of the judgment-debtor or any other person interested in the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the decree-holder.

295. Whenever assets are realized by sale or otherwise in execution of a decree, and more persons than one have, prior to the realization, applied to the Court by which such assets are held for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be divided rateably among all such persons:

Provided as follows:—

(a) when any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not as such be entitled to share in any surplus arising from such sale:

(b) when any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the assent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same right against the proceeds of the sale as he had against the property sold:

(c) when immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—

first, in defraying the expenses of the sale;

secondly, in discharging the interest and principal-money due on the incumbrance;

thirdly, in discharging the interest and principal-moneys due on subsequent incumbrances (if any); and

fourthly, rateably among the holders of decrees for money against the judgment-debtor, who have, prior to the sale of the said property, applied to the Court which made the decree ordering such sale for execution of such decrees and have not obtained satisfaction thereof.

If all or any of such assets be paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

Nothing in this section affects any right of the Government.

(b) Rules as to Movable Property.

296. If the property to be sold be a negotiable instrument or a share in any public Company or Corporation, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or share through a broker at the market-rate of the day.

297. In the case of other moveable property, the price of each lot shall be paid for at the time of sale, or as soon after as the officer holding the sale directs, and, in default of payment, the property shall forthwith be again put up and sold.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

298. No irregularity in publishing or conducting the sale of moveable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation, or (if such other person be the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

299. When the property sold is a negotiable instrument or other moveable property of which actual seizure has been made, the property shall be delivered to the purchaser.

300. When the property sold is any moveable property to which the judgment-debtor is entitled subject to the possession of some other person, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

301. When the property sold is a debt not secured by a negotiable instrument, or is a share in any public Company, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the manager, secretary or other proper officer of the Company from permitting any such transfer or making any such payment to any person except the purchaser.

302. If the endorsement or conveyance of the transfer of negotiable instruments and shares. party in whose name a negotiable instrument or a share in any public Company is standing is required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share, or may execute such other document as may be necessary.

The endorsement or execution shall be in the following form or to the like effect:—"A. B., by C. D., Judge of the Court of (or as the case may be); in a suit by E. F. against A. B."

Until the transfer of such instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made, or document executed, or receipt signed, as aforesaid, shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself.

303. In the case of any moveable property not vesting order in case hereinbefore provided for, of other property. the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

(c) Rules as to Immoveable Property.

304. Sales of immoveable property in execution What Courts may of a decree may be ordered order sales of land. by any Court other than a Court of Small Causes.

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may on his application postpone the sale of property comprised in the order for sale, for such period as it thinks proper to enable him to raise the amount.

In such case the Court shall grant a certificate to the judgment-debtor authorizing him, within a period to be mentioned therein, and notwithstanding anything contained in section 276, to make the proposed mortgage, lease or sale: provided that all moneys payable under such mortgage, lease or sale shall be paid into court and not to the judgment-debtor:

Provided also that no mortgage, lease or sale under this section shall become absolute until it has been confirmed by the Court.

306. On every sale of immoveable property Deposit by purchaser under this chapter, the of immoveable property. person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per centum on the amount of his purchase-money to the officer conducting the sale, and, in default of such deposit,

the property shall forthwith be put up again and sold.

307. The full amount of purchase-money shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day, or, if the fifteenth day be a Sunday or other holiday, then on the first office-day after the fifteenth day.

308. In default of payment within the period mentioned in the last preceding section, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

309. Every re-sale of immoveable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

310. When the property sold in execution of a decree is a share of undivided immoveable property, and two or more persons, of whom one is a co-sharer respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the co-sharer.

311. The decree-holder, or any person whose immoveable property has been sold under this chapter, may apply to the Court to set aside the sale on the ground of a material irregularity in publishing or conducting it;

but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

312. If no such application as is mentioned in the last preceding section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale as regards the parties to the suit and the purchaser.

If such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale.

No suit to set aside, on the ground of such irregularity, an order passed under this section shall be brought by the party against whom such order has been made.

313. The purchaser at any such sale may apply to the Court to set aside the sale, on the ground that the person whose property purported to be sold had no saleable interest therein, and the Court may make

such order as it thinks fit: provided that no order to set aside a sale shall be made, unless the judgment-debtor and the decree-holder have had opportunity of being heard against such order.

314. No sale of immoveable property in execution of a decree shall become absolute until it has been confirmed by the Court.

If sale set aside, price to be returned to purchaser.

315. When a sale of immoveable property is set aside under section 312 or 313,

or when it is found that the judgment-debtor had no saleable interest in the property which purported to be sold and the purchaser is for that reason deprived of it,

the purchaser shall be entitled to receive back his purchase-money (with or without interest as the Court may direct) from any person to whom the purchase-money has been paid.

The repayment of the said purchase-money and of the interest (if any) allowed by the Court may be enforced against such person under the rules provided by this Code for the execution of a decree for money.

316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear the date of the confirmation of the sale; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall vest in the purchaser from the date of such certificate and not before: provided that the decree under which the sale took place was still subsisting at that date.

317. No suit shall be maintained against the certified purchaser on the ground that the purchase was made on behalf of any other person, or on behalf of some one through whom such other person claims.

Nothing in this section shall bar a suit to obtain a declaration that the name of the certified purchaser was inserted in the certificate fraudulently or without the consent of the real purchaser.

318. When the property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall, on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

and the residue, if any, shall be paid to the judgment-debtor or such other person, if any, as the Court directs.

325. When the Collector sells any property under this chapter, he shall put it up to public auction, in one or more lots as he thinks fit, and may—

- (a) fix a reasonable reserved price for each lot ;
- (b) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment ;
- (c) buy in the property offered for sale, and resell the same by public auction or private contract, as he thinks fit.

325A. So long as the Collector can exercise or perform in respect of the judgment-debtor's immovable property, or any part thereof, any of the powers or duties conferred or imposed on him by sections 322 to 325 (both inclusive), the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any civil Court issue any process against such property or part in execution of a decree for money.

During the same period no civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under section 323.

The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this section in respect of any remedy of which the decree-holder has thereby been temporarily deprived.

325B. When the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by sections 321 to 325 (both inclusive) shall from time to time be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

325C. In exercising the powers conferred on him by sections 322 to 325 (both inclusive), the Collector shall have the powers of a civil Court to compel the attendance of parties and witnesses and the production of documents.

326. When, in any local area in which no declaration under section 320 is in force, the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is

objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation or management of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. In such case the provisions of sections 320, paragraph two, to 325C (both inclusive) shall apply, as far as they are applicable.

327. The Local Government may from time to time, with the sanction of the Governor General in Council, make special rules for any local area imposing conditions in respect of sale of any class of interests in land in execution of decrees for money, where such interests are so uncertain or undetermined as in the opinion of the Local Government to make it impossible to fix their value :

and if, when this Code comes into operation in any local area, any special rules as to sale of land in execution of decrees are in force therein, the Local Government may continue such rules in force, or may from time to time, with the sanction of the Governor General in Council, modify the same.

All rules so made or continued, and all such modifications of the same, shall be published in the local official Gazette, and shall thereupon have the force of law.

II.—Of Resistance to Execution.

328. If, in the execution of a decree for the possession of property, the officer charged with the execution of the warrant is resisted or obstructed by any person, the decree-holder may complain to the Court at any time within one month from the time of such resistance or obstruction.

The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

329. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, the Court shall inquire into the matter of the complaint, and pass such order as it thinks fit.

330. If the Court is satisfied that the resistance or obstruction was without any just cause, and that the complainant is still resisted or obstructed in obtaining possession of the property by the judgment-debtor or some other person at his instigation, the Court may, at the instance of the decree-holder and without prejudice to any penalty to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for such resistance or obstruction, commit the judgment-debtor or such other person to jail for a term which may

extend to thirty days, and direct that the decree-holder be put into possession of the property.

331. If the resistance or obstruction has been

occasioned by any person other than the judgment-debtor claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant ;

and the Court shall, without prejudice to any proceedings to which the claimant may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of Chapter V,

and shall pass such order as it thinks fit for executing or staying execution of the decree.

Every such order shall have the same force as a decree, and shall be subject to the same conditions as to appeal or otherwise.

332. If any person other than the judgment-debtor is dispossessed of any

Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.

property in execution of a decree, and such person disputes the right of the decree-holder to dispossess him of such property under the decree, on the ground that the property was *bonâ fide* in his possession on his own account or on account of some person other than the judgment-debtor, and that it was not comprised in the decree, or that, if it was comprised in the decree, he was not a party to the suit in which the decree was passed, he may apply to the Court.

If after examining the applicant it appears to the Court that there is probable cause for making the application, the Court shall proceed to investigate the matter in dispute ; and if it finds that the ground mentioned in the first paragraph of this section exists, it shall make an order that the applicant recover possession of the property, and if it does not find as aforesaid, it shall dismiss the application.

In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

The party against whom an order is passed under this section may institute a suit to establish the right which he claims to the present possession of the property ; but, subject to the result of such suit, if any, the order shall be final.

333. Nothing in section 331 or 332 applies to

Transfer of property by judgment-debtor after institution of suit.

a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made.

334. If the purchaser of any immoveable pro-

Resisting or obstructing purchaser in obtaining possession of immoveable property.

erty sold in execution of a decree be resisted or obstructed by the judgment-debtor or any one on his behalf in obtaining possession of the property, the provisions of this chapter relating to resistance or obstruction to a decree-holder in obtaining possession of the property adjudged to him shall be applicable.

335. If the purchaser of any such property is

Obstruction by claimant other than judgment-debtor.

resisted or obstructed by any person other than the judgment-debtor claiming in good faith a right to the present possession thereof, or if, in delivering possession thereof, any such person is dispossessed, the Court, on the complaint of the purchaser or the person so dispossessed, shall inquire into the matter of the resistance, obstruction or dispossession, as the case may be, and pass such order thereon as it thinks fit.

The party against whom such order is passed may institute a suit to establish the right which he claims to the present possession of the property ; but, subject to the result of such suit, if any, the order shall be final.

I.—Of Arrest and Imprisonment.

336. A judgment-debtor may be arrested in

Place of judgment-debtor's imprisonment.

execution of a decree at any hour and on any day, and shall as soon as practicable be brought before the Court, and his imprisonment may be in the civil jail of the district in which the Court ordering the imprisonment is situate, or, when such jail does not afford suitable accommodation, in any other place which the Local Government may appoint for the confinement of persons ordered by the Courts of such district to be imprisoned :

Provided as follows :—

(a) for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset or before sunrise, and no outer door of a dwelling-house shall be broken open. But, when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe the judgment-debtor is to be found : provided that, if the room be in the actual occupancy of a woman who is not the judgment-debtor, and who according to the customs of the country does not appear in public, the officer shall give notice to her that she is at liberty to withdraw ; and, after allowing a reasonable time for her to withdraw and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of making the arrest :

(b) when the decree in execution of which

Proviso.

a judgment-debtor is arrested is a decree for money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer

arresting him, such officer shall at once release him.

The Local Government may, by notification published in the official Gazette, direct that, whenever a judgment-debtor is arrested in execution of a decree for money and brought before the Court under this section, the Court shall inform him that he may apply under Chapter XX to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application and if he places all his property in possession of a receiver appointed by the Court.

If after such publication the judgment-debtor express his intention so to apply, and if he furnish sufficient security that he will appear when called upon, and that he will within one month apply under section 344 to be declared an insolvent, the Court shall release him from arrest :

But if he fails so to apply, the Court may either direct the security to be realised or commit him to jail in execution of the decree.

In the case of a surety such security may be realised in manner provided by section 253.

337. Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid.

338. The Local Government may from time to time prescribe scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

339. No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as, having regard to the scales so fixed, the Judge thinks sufficient for the subsistence of the judgment-debtor from his arrest until he can be brought before the Court.

When a judgment-debtor is committed to jail in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the said scales, or, where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

The monthly allowance fixed by the Court shall be supplied by the party on whose application the decree has been executed, by monthly payments in advance before the first day of each month.

The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgment-debtor is committed to jail, and the subsequent payments (if any) shall be made to the officer in charge of the jail.

340. Sums disbursed by the decree-holder for Subsistence-money to the subsistence of the judgment-debtor in jail shall be deemed to be costs in the suit :

Provided that the judgment-debtor shall not be detained in jail or arrested on account of any sum so disbursed.

Release of judgment-debtor. **341.** The judgment-debtor shall be discharged from jail,

(a) on the amount mentioned in the warrant of committal being paid to the officer in charge of the jail; or

(b) on the decree being otherwise fully satisfied; or

(c) at the request of the person on whose application he has been imprisoned; or

(d) on such person omitting to pay the allowance as hereinbefore directed; or

(e) if the judgment-debtor be declared an insolvent, as hereinafter provided; or

(f) when the term of his imprisonment, as limited by section 342, is fulfilled :

Provided that, in the second, third and fifth cases mentioned in this section, the judgment-debtor shall not be discharged without the order of the Court.

A judgment-debtor discharged under this section is not thereby discharged from his debt; but he cannot be re-arrested under the decree in execution of which he was imprisoned.

342. No person shall be imprisoned in execution of a decree for a longer period than six months;

or for a longer period than six weeks if the decree be for the payment of a sum of money not exceeding fifty rupees.

343. The officer entrusted with the execution of the warrant shall endorse thereupon the day on, and the manner in, which it was executed, and, if the latest day specified in the warrant for the return thereof has been exceeded, the reason of the delay, or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the Court.

If the endorsement is to the effect that such officer is unable to execute the warrant, the Court shall examine him on oath touching his alleged inability, and may, if it thinks fit, summon and examine witnesses as to such inability, and shall record the result.

CHAPTER XX.

OF INSOLVENT JUDGMENT-DEBTORS.

344. Any judgment-debtor arrested or imprisoned in execution of a decree for money, or against whose property an order of

attachment has been made in execution of such a decree, may apply in writing to be declared an insolvent.

Any holder of a decree for money may apply in writing that the judgment-debtor may be declared an insolvent.

Every such application shall be made to the District Court within the local limits of whose jurisdiction the judgment-debtor resides or is in custody.

345. The application, when made by the judgment-debtor, shall set forth—

(a) the fact of his arrest or imprisonment, or that an order for the attachment of his property has been made, the Court by whose order he was arrested or imprisoned, or by which the order of attachment was made, and, where he has been arrested or imprisoned, the place in which he is in custody ;

(b) the amount, kind and particulars of his property, and the value of any such property not consisting of money ;

(c) the place or places in which such property is to be found ;

(d) his willingness to put it at the disposal of the Court ;

(e) the amount and particulars of all pecuniary claims against him ; and

(f) the names and residences of his creditors, so far as they are known to or can be ascertained by him.

The application, when made by the holder of a decree for money, shall set forth the date of the decree, the Court by which it was passed, the amount remaining due thereunder, and the place where the judgment-debtor resides or is in custody.

346. The application shall be signed and verified by the applicant in manner hereinbefore prescribed for signing and verifying plaints.

347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in court and served at the applicant's expense—

where the applicant is the judgment-debtor—on the holder of the decree in execution of which he was arrested or imprisoned or the order of attachment was made, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application :

where the applicant is the decree-holder—on the judgment-debtor or his pleader.

The Court may, if it thinks fit, publish at the applicant's expense the application in such official Gazettes and public newspapers as it thinks fit.

Where the applicant is the judgment-debtor, the Court may exempt him from any payments under

this section if satisfied that he is unable to make them.

348. The Court may also, if it thinks fit, cause a like copy and notice to be served on any other person alleging himself to be a creditor of the applicant and applying for leave to be heard on the application.

349. Where the judgment-debtor is under arrest, the Court may, pending the hearing under section 350, order him to be immediately committed to jail, or leave him in the custody of the officer to whom the service of the warrant was entrusted, or release him on his furnishing sufficient security that he will appear when called upon.

350. On the day so fixed, or on any subsequent day to which the Court may adjourn the hearing, the Court shall examine the judgment-debtor, in the presence of the persons on whom such notice has been served or their pleaders, as to his then circumstances and as to his future means of payment, and shall hear the said decree-holder, the other creditors mentioned in the application, and the other persons (if any) alleging themselves to be creditors, in opposition to the judgment-debtor's discharge ; and may, if it thinks fit, grant time to the said decree-holder and other creditors or persons to adduce evidence showing that the judgment-debtor is not entitled to be declared an insolvent.

351. If the Court is satisfied—

(a) that the statements in the application are substantially true ;

(b) that the judgment-debtor has not, with intent to defraud his creditors, concealed, transferred or removed any part of his property since the institution of the suit in which was passed the decree in execution of which he was arrested or imprisoned, or the order of attachment was made, or at any subsequent time ;

(c) that he has not, knowing himself to be unable to pay his debts in full, recklessly contracted debts or given an unfair preference to any of his creditors by any payment or disposition of his property ;

(d) that he has not committed any other act of bad faith regarding the matter of the application, the Court may declare him to be an insolvent, and may also, if it thinks fit, make an order appointing a receiver of his property, or if it does not appoint such receiver, may discharge the insolvent,

If the Court is not so satisfied, it shall make an order rejecting the application.

352. The creditors mentioned in the application, and the other persons (if any) alleging themselves to be creditors of the insolvent, shall then produce evidence of the amount and

particulars of their respective pecuniary claims against him; and the Court shall by order determine the persons who have proved themselves to be the insolvent's creditors and their respective

debts; and shall frame a schedule of such persons and debts; and the declaration under section 351 shall be deemed to be a decree in favour of each of the said creditors for their said respective debts.

A copy of every such schedule shall be stuck up in the court-house.

Nothing in this section shall be deemed to entitle a partner in an insolvent-firm or, when he has died before the insolvency, his legal representative, to prove in competition with the creditors of the firm.

353. Any creditor of the insolvent who is not mentioned in such schedule may apply to the Court for permission to produce evidence of the amount and particulars of his pecuniary claims against the insolvent, and, in case the applicant proves himself to be a creditor of the insolvent, for an order directing his name to be inserted in the schedule as a creditor for the debt so proved.

Any creditor mentioned in the schedule may apply to the Court for an order altering the schedule so far as regards the amount, nature or particulars of his own debt, or to strike out the name of another creditor, or to alter the schedule so far as regards the amount, nature or particulars of the debt of another creditor.

In the case of any application under this section, the Court, after causing such notices as it thinks fit to be served, at the applicant's expense, on the insolvent and the other creditors, and hearing their objections, if any, may comply with or reject the application.

354. Every order under section 351 shall be published in the local official Gazette and shall operate to vest in the Receiver all the insolvent's property (except the particulars specified in the first proviso to section 266), whether set forth in his application or not.

355. The Receiver so appointed shall give such security as the Court may direct and shall possess himself of all such property, except as aforesaid;

and on his certifying that the insolvent has placed him in possession thereof, or has done everything in his power for that purpose, the Court may discharge the insolvent upon such conditions (if any) as the Court thinks fit.

356. The Receiver shall proceed under the direction of the Court—

- (a) to convert the property into money;
- (b) to pay thereout debts, fines and penalties (if any) due by the insolvent to Government;

(c) to pay the said decree-holder's costs;

(d) to discharge according to their respective priorities all debts secured by mortgage of the insolvent's property;

(e) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts and without any preference,

and such Receiver may retain as a remuneration

for the performance of his duties a commission, to be fixed by the Court, not exceeding the rate of five per centum upon the amount of the balance so distributed (the amount of the commission so retained being deemed a distribution), and shall deliver

the surplus, if any, to the insolvent or his legal representative:

Provided that, in any local area in which a declaration has been made under section 320 and is in force, no sale of immoveable property paying revenue to Government or held or let for agricultural purposes shall be made by the Receiver; but, after he has sold the other property of the insolvent, the Court shall ascertain (a) the amount required to satisfy the claims of the scheduled creditors after deducting the monies already received, (b) the immoveable property of the insolvent remaining unsold, and (c) the incumbrances, if any, existing thereon, and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by sections 322 to 325 both inclusive, as he thinks fit, and subject to the provisions of those sections so far as they may be applicable; and shall hold at the disposal of the Court all sums that may come to his hands by such exercise.

357. An insolvent discharged under section 351 or 355 shall not be arrested or imprisoned on account of any of the scheduled debts. But (subject to the provisions of section 358) his property, whether previously or subsequently acquired (except the particulars specified in the first proviso to section 266 and except the property vested in the Receiver), shall, by order of the Court, be liable to attachment and sale until the debts due to the scheduled creditors are satisfied to the extent of one-third, or until the expiry of twelve years from the date of the order of discharge under section 351 or 355.

358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may, and in any case after the scheduled debts have been satisfied to the extent of one-third, or after the expiry of twelve years from the order of discharge, the Court shall, declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts.

359. Whenever, at the hearing under section 350, it is proved that the applicant has

(a) been guilty, in his application, of any concealment or of wilfully making any false statement as to the debts due by him, or respecting the property belonging to him, whether in possession or in expectancy, or held for him in trust;

(b) fraudulently concealed, transferred or removed any property; or

(c) committed any other act of bad faith regarding the matter of the application,

the Court shall, at the instance of any of his creditors, sentence him by order in writing to imprisonment for a term which may extend to one year from the date of committal.

Or the Court may, if it think fit, send him to the Magistrate to be dealt with according to law.

360. The Local Government may, by notification in the official Gazette, invest any Court other than a District Court with the powers conferred on District Courts by sections 344 to 359 (both inclusive), and the District Judge may transfer to any Court situate in his district and so invested any case instituted under section 344.

Any Court so invested may entertain any application under section 344 by any person arrested in execution of a decree of such Court.

Nothing in this chapter shall apply to any Court having jurisdiction in the towns of Rangoon, Moulmein, Akyah and Bassein where the property of the judgment-debtor exceeds in value two thousand five hundred rupees, or the amount of the pecuniary claims against him exceeds five thousand rupees, or such property or any part thereof is situate outside British Burma.

PART II.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

361. The death of a plaintiff or defendant shall not cause the suit to abate if the right to sue survives.

Illustrations.

(a) A covenants with B and C to pay an annuity to B during C's life. B and C sue A to compel payment. B dies before the decree: the right to sue survives to C, and the suit does not abate.

(b) In the same case, all the parties die before decree. The right to sue survives to the representative of the survivor of B and C, and he may continue the suit against A's representative.

(c) A sues B for libel. A dies. The right to sue does not survive, and the suit abates.

(d) A, a member of a Hindú joint family under the Mitáksharā law, institutes a suit for partition of the family-property. A dies leaving B, a minor son, his heir. The right to sue survives to B, and the suit does not abate.

362. If there be more plaintiffs or defendants than one, and any of them dies, and if the right to sue survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

363. If there be more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of such legal representative, enter his name on the record in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative.

364. If within the time limited by law no application be made to the Court by any person claiming to be the legal representative of a deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs;

and the legal representative (if any) of the deceased plaintiff shall be made a party and shall be interested in and bound by the decree passed in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

365. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, where the right to sue survives, on the application of the legal representative of the deceased, enter his name in the place of such plaintiff on the record, and the suit shall thereupon proceed.

366. If within the time limited by law no such application be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the Court may pass an order that the suit shall abate, and shall, on the application of the defendant, award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff;

or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs or otherwise as it thinks fit, pass such other order as it thinks fit for bringing in the legal re-

presentative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

Explanation.—A certificate of heirship, or a certificate to collect debts, does not of itself constitute the person holding it the legal representative of the deceased. But when the person holding any such certificate obtains thereby property belonging to the deceased, he may be treated as a legal representative liable in respect of such property.

367. If any dispute arise as to who is the legal

Procedure in case of dispute as to representative of deceased plaintiff. representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

368. If there be more defendants than one, and

Procedure in case of death of one of several defendants. any of them die before decree and the right to sue does not survive against the surviving defendant or defendants alone,

and also in case of the death of a sole defendant,

or of sole or sole surviving defendant. or sole surviving defendant where the right to sue survives,

the plaintiff may make an application to the Court, specifying the name, description and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead.

The Court shall thereupon enter the name of such representative on the record in the place of such defendant,

and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit ;

and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit :

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

When the plaintiff fails to make such application within the period prescribed therefor, the suit shall abate, unless he satisfies the Court that he had sufficient cause for not making the application within such period.

369. The marriage of a female plaintiff or de-

Suit not abated by marriage of female party. fendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and, where the decree is against a female defendant, it may thereupon be executed against her alone.

If the case is one in which the husband is by law liable for the debts of his wife, the decree may,

with the permission of the Court, be executed against the husband also ; and, in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

370. The bankruptcy or insolvency of a plaintiff

When plaintiff's bankruptcy or insolvency bars suit. in any suit which his assignee or the receiver appointed under section 351 might maintain for the benefit of his creditors shall not bar the suit, unless such assignee or receiver declines to continue the suit and to give security for the costs thereof within such time as the Court may order.

If the assignee or receiver neglect or refuse to

Procedure when assignee fails to continue suit or give security. continue the suit and to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

371. When a suit abates or is dismissed under

Effect of abatement or dismissal. this chapter, no fresh suit shall be brought on the same cause of action.

But the person claiming to be the legal repre-

Application to set aside abatement or dismissal. sentative of the deceased or bankrupt or insolvent plaintiff may apply for an order

to set aside the order for abatement or dismissal ; and, if it be proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

372. In other cases of assignment, creation or

Procedure in case of assignment pending suit. devolution of any interest pending the suit, the suit may, with the leave of the

Court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come either in addition to or in substitution for the person from whom it has passed, as the case may require.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. If, at any time after the institution of the

Power to allow plaintiff to withdraw with liberty to bring fresh suit. suit, the Court is satisfied on the application of the plaintiff (a) that the suit must

fail by reason of some formal defect, or (b) that there are sufficient grounds for permitting him to withdraw from the suit or to abandon part of his claim with liberty to bring a fresh suit for the subject-matter of the suit or in respect of the part so abandoned, the Court may grant such permission on such terms as to costs or otherwise as it thinks fit.

If the plaintiff withdraw from the suit, or abandon part of his claim, without such permission, he shall be liable for such costs as the Court may award, and shall be precluded from bringing a fresh suit for the same matter or in respect of the same part.

Nothing in this section shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

374. In any fresh suit instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been brought.

375. If a suit be adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the whole or any part of the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the Court shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final, so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

376. The defendant in any suit to recover a debt or damages may, at any stage of the suit, deposit in court such sum of money as he considers a satisfaction in full of the claim.

377. Notice in writing of the deposit shall be given through the Court by the defendant to the plaintiff, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the plaintiff on his application.

378. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

379. If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the Court decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff must pay the costs of the suit incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

If the plaintiff accept such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall

pass judgment accordingly, and, in directing by whom the costs of each party are to be paid, the Court shall consider which of the parties is most to blame for the litigation.

Illustrations.

(a) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(b) B sues A under the circumstances mentioned in illustration (a). On the plaint being filed, A disputes the claim. Afterwards A pays the money into court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shown that the litigation was necessary.

(c) A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

380. If, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of British India, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immoveable property within British India independent of the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by any defendant.

381. In the event of such security not being furnished within the time so fixed, the Court shall dismiss the suit unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of section 373.

382. Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of British India within the meaning of section 380.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

383. Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of persons resident within the limits of the Court's jurisdiction.

in the local limits of its jurisdiction, who are exempted under this Code from attending the Court, or who are from sickness or infirmity unable to attend it.

384. Such order may be made by the Court either of its own motion, or on the application, supported by affidavit or otherwise, of any party to the suit or of the witness to be examined.

385. The commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute the same.

386. Any Court may in any suit issue a commission for the examination of—

(a) any person resident beyond the local limits of its jurisdiction;

(b) persons who are about to leave such limits before the date on which they are required to be examined in Court; and

(c) civil and military officers of Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint.

The Court on issuing any commission under this section shall direct whether the commission shall be returned to itself or to any subordinate Court.

387. When any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied that his evidence is necessary, the Court may issue such commission.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

389. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit.

390. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless

(a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or

(b) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in the last preceding clause, and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

391. The provisions hereinafore contained as to the execution and return of commissions shall apply to commissions issued by foreign Courts.

(a) Courts situate beyond the limits of British India and established by the authority of Her Majesty or of the Governor General in Council, or

(b) Courts situate in any part of the British Empire other than British India, or

(c) Courts of any foreign country for the time being in alliance with Her Majesty.

B.—Commissions for local Investigations.

392. In any suit or proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual nett profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report thereon to the Court:

Provided that, when the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

393. The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, signed with his name, to the Court.

The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court, or, with the permission of the Court, any of the parties to the suit, may examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

C.—Commissions to examine Accounts.

394. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

395. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

D.—Commission to make Partition.

396. In any suit in which the partition of immoveable property not paying revenue to Government appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

The Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission issues, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party, and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court; and the Court, after hearing any objections which the parties may make to the report or reports, shall either quash the same and issue a new commission, or (where the Commissioners agree in their report) pass a decree in accordance therewith.

E.—General Provisions.

397. Before issuing any commission under this Chapter, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed by the Court, paid into court by the

party at whose instance or for whose benefit the commission is issued.

398. Any Commissioner appointed under this Chapter may, unless otherwise directed by the order of appointment,

(a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;

(b) call for and examine documents and other things relevant to the subject of inquiry;

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

399. The provisions of this Code relating to the summoning, attendance, examination and punishment of witnesses before Commissioner, and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this Chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India.

For the purposes of this section, the Commissioner shall be deemed to be a Court of Civil Judicature.

400. Whenever a commission is issued under this chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

If the parties do not so appear the Commissioner may proceed *ex parte*.

PART III.**OF SUITS IN PARTICULAR CASES.****CHAPTER XXVI.****SUITS BY PAUPERS.**

401. Subject to the following rules, any suit may be brought by a pauper.

Explanation.—A person is a "pauper" when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing apparel and the subject-matter of the suit.

402. No suit shall be brought by a pauper to recover compensation for loss of caste, libel, slander, abusive language or assault.

403. The application for permission to sue by a pauper shall be in writing, and shall contain the particulars required by section 50 in regard to plaints in suits: a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, shall be annexed thereto; and it shall be signed and verified in the manner hereinbefore prescribed for the signing and verification of plaints.

404. Notwithstanding anything contained in section 36, the application shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court under section 640 or section 641, in which case the application may be presented by a duly authorized agent who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.

405. If the application be not framed or presented in the manner prescribed by sections 403 and 404, the Court shall reject it.

406. If the application be in proper form and duly presented, the Judge may, if he thinks fit, examine the petitioner, or his agent, when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

When the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken under the provisions of this Code.

407. If it appear to the Court

- (a) that the applicant is not a pauper, or
 - (b) that he has, within the two months next before the presentation of the application, disposed of any property fraudulently or with a view to obtain the benefit of this chapter, or
 - (c) that his allegations do not show a right to sue in such Court, or
 - (d) that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter,
- the Court shall reject the application.

408. If the Court sees no reason to refuse the application on any of the grounds stated in section 407, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party and the Government Pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing

any evidence which may be adduced in disproof thereof.

409. On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may cross-examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in section 407.

The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

410. If the application be granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under Chapter V, except that the plaintiff shall not be liable to any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

411. If the plaintiff succeed in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code.

412. If the plaintiff fails in the suit, or if he is dispaupered, or if the suit is dismissed under section 97 or 98, the Court shall order the plaintiff, or any person made under section 32 co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper;

and if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

413. An order of refusal made under section 409 to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by Government in opposing his application for leave to sue as a pauper.

414. The Court may, on motion by the defendant, or by the Government Pleader, of which one week's notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

Dispaupering.

(a) if he is guilty of vexatious or improper conduct in the course of the suit ;

(b) if it appears that his means are such that he ought not to continue to sue as a pauper, or

(c) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

415. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism are costs in the suit.

Costs.

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council.

Suits by or against Secretary of State in Council.

417. Persons being *ex officio* or otherwise authorized to act for Government in respect of any judicial proceeding shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of Government.

Persons authorized to act for Government.

418. In suits by the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "The Secretary of State for India in Council."

Plaints in suits by Secretary of State in Council.

419. The Government Pleader in any court shall be the agent of the Government for the purpose of receiving processes against the said Secretary of State in Council issuing out of such court.

Agent for Government to receive process.

420. The Court, in fixing the day for the said Secretary of State in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

421. The Court may also, in any case in which the Government Pleader is not accompanied by any person on the part of the said Secretary of State

Attendance of person able to answer questions relating to suit against Government.

in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

422. Where the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being served on him, if it appear to the Court that the summons may be most conveniently so served.

Service on public officer.

423. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel ;

Extension of time to enable officer to make reference to Government.

and the Court upon such application may extend the time for so long as appears to be requisite.

424. No suit shall be instituted against the said Secretary of State in Council, or against a public officer in respect of an act purporting to be done by him in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff ; and the plaint must contain a statement that such notice has been so delivered or left.

425. No warrant of arrest shall be issued in such suit without the consent in writing of the District Judge.

Arrests in such suits.

426. If the Government undertakes the defence of a suit against a public officer, the Government Pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register.

Application where Government undertakes defence.

427. If such application is not made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

Procedure where no such application made.

Defendant not liable to arrest before judgment.

428. In a suit against a public officer in respect of such act as aforesaid the Court shall exempt the defendant from appearing in person when he satisfies the Court that he cannot absent himself from his duty without detriment to the public service.

429. When the decree is against the said Secretary of State in Council or against a public officer in respect of such act as aforesaid, a time shall be specified in the decree within which it shall be satisfied; and, if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Execution shall not issue on any such decree unless it remains unsatisfied for the period of three months computed from the date of the report.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

430. Alien enemies residing in British India with the permission of the Governor General in Council, and alien friends, may sue in the Courts of British India as if they were subjects of Her Majesty.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland, and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

431. A foreign State may sue in the Courts of British India, provided that—

(a) it has been recognized by Her Majesty or the Governor General in Council, and

(b) the object of the suit is to enforce the private rights of the head or of the subjects of the foreign State.

The Court shall take judicial notice of the fact that a foreign State has not been recognized by Her Majesty or by the Governor General in Council.

432. Persons specially appointed by order of Government at the request of any Sovereign Prince or ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, to prosecute or defend any suit on his behalf, shall be

deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

433. Any such Prince or Chief, and any ambassador or envoy of a foreign State, may, with the consent of Government certified by the signature of one of its Secretaries (but not without such consent) be sued in any competent Court not subordinate to a District Court;

Such consent shall not be given unless—

(a) the Prince, Chief, ambassador or envoy has instituted a suit in such Court against the person desiring to sue him; or

(b) the Prince, Chief, ambassador or envoy by himself or another trades within the local limits of the jurisdiction of such Court; or

(c) the subject-matter of the suit is immovable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

No such Prince, Chief, ambassador or envoy shall be arrested under this Code; and no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy unless with consent of Government certified as aforesaid.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(a) declare that the decrees of any Civil or Revenue Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor General in Council, may be executed in British India as if they had been made by the Courts of British India, and

(b) cancel any such declaration.

So long as such declaration remains in force, the said decrees may be executed accordingly.

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

435. In suits by a Corporation, or by a Company authorized to sue and be sued in the name of an officer or of a trustee, the plaintiff may be subscribed and verified on behalf of the Corporation or Company by any director, secretary or other principal officer of the Corporation or Company, who is able to depose to the facts of the case.

436. When the suit is against a Corporation, or against a Company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served—

(a) by leaving it at the registered office (if any) of the Corporation or Company, or

(b) by sending it by post in a letter addressed to such officer or trustee at the office (or if there be more offices than one, at the principal office in British India) of the Corporation or Company, or

(c) by giving it to any director, secretary or other principal officer of the Corporation or Company;

and the Court may require the personal appearance of any director, secretary or other principal officer of the Corporation or Company who may be able to answer material questions relating to the suit.

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437. In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit. But the Court may, if it thinks fit, order them or any of them to be made such parties.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them :

Provided that executors who have not proved their testator's will, and executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

439. Unless the Court directs otherwise, the husband of a married administrator or executrix shall not be a party to a suit by or against her.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

440. Every suit by a minor shall be instituted in his name by an adult person, who in such suit shall be called the next friend of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

441. Every application to the Court on behalf of a minor (other than an application under section 449) shall be made by his next friend, or his guardian for the suit.

442. If a plaint be filed by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other person by whom it was presented. Notice of such application shall be given to such person by the defendant: and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

443. Where the defendant to a suit is a minor, Guardian *ad litem* to the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

444. Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, if the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

445. Any person being of sound mind and full age may act as next friend of a minor, provided his interest is not adverse to that of such minor, and he is not a defendant in the suit.

446. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor, as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

447. Unless otherwise ordered by the Court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor.

448. On the death or removal of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

449. If the pleader of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

450. A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, on coming of age must elect whether he will proceed with the suit or application.

451. If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

The title of the suit or application shall in such case be corrected so as to read thenceforth thus:

"A. B., late a minor, by C. D., his next friend, but now of full age."

452. If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

453. Any application under section 451 or section 452 may be made *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

454. A minor co-plaintiff on coming of age and desiring to repudiate the suit must apply to have his name struck out as co-plaintiff; and the Court, if it finds that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

Notice of the application shall be served on the next friend, as well as on the defendant; and it must be proved by affidavit that the late minor has attained his full age. The costs of all parties of such application, and of all or any proceedings theretofore had in the suit, shall be paid by such persons as the Court directs.

If the late minor be a necessary party to the suit the Court may direct him to be made a defendant.

455. If any minor on attaining majority can prove to the satisfaction of the Court that a suit instituted in his name by a next friend was unreasonable

or improper, he may, if a sole plaintiff, apply to have the suit dismissed.

Notice of the application shall be served on all the parties concerned: and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name and on behalf of the minor or by the plaintiff. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is a fit person to be so appointed.

Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian: Provided that he has no interest adverse to that of the minor.

457. A co-defendant of sound mind and of full age may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a married woman, can be so appointed.

458. If the guardian for the suit of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the Court may remove him, and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

459. If the guardian for the suit dies pending such suit, or is removed by the Court, the Court shall appoint a new guardian in his place.

460. When the enforcement of a decree is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

461. No sum of money or other thing shall be received or taken by a next friend or guardian for the suit on behalf of a minor, at any time before decree or order, unless he has first obtained the leave of the Court, and given security to its satisfaction that such money or other thing shall be duly accounted for to, and held for the benefit of, such minor.

462. No next friend or guardian for the suit

Next friend or guardian *ad litem* not to compromise without leave of Court.

shall, without the leave of the Court, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which

he acts as next friend or guardian.

Any such agreement or compromise entered into

Compromise without leave voidable.

without the leave of the Court shall be voidable against all parties other than the minor.

463. The provisions contained in sections 440

Application of sections 440 to 462 to persons of unsound mind.

to 462 (both inclusive) shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under Act No. XXXV of 1858, or under any other law for the time being in force.

464. Nothing in sections 442 to 462 applies to

Wards of Court.

any minor or person of unsound mind, for whose person or property a guardian or manager has been appointed by the Court of Wards or by the Civil Court under any local law.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

465. When any officer or soldier actually serving

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

the Government in a military capacity is a party to a suit, and cannot obtain leave of absence for the purpose

of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

The authority shall be in writing and shall be signed by the officer or soldier in the presence of (a) his commanding officer, or the next subordinate officer, if the party be himself the commanding officer, or (b) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority, which shall be filed in court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation.—In this chapter the expression 'commanding officer' means the officer in actual command for the time being of any regiment, corps, detachment or depôt to which the officer or soldier belongs.

466. Any person authorized by an officer or a

Person so authorized may act personally or appoint pleader.

soldier to prosecute or defend a suit in his stead may prosecute or defend it in person

in the same manner as the officer or soldier could

do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

467. Processes served upon any person author-

Service on person so authorized, or on his pleader, to be good service.

ized by an officer or a soldier, as in section 465, or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader.

468. When an officer or a soldier is a defendant,

Service on officers and soldiers. the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him.

The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

469. If, in the execution of a decree, a warrant

Execution of warrant of arrest or other process is of arrest in cantonments, to be executed within the limits of a cantonment, &c.

garrison, military station or military bazar, the officer charged with the execution of such warrant or other process shall deliver the same to the commanding officer.

The commanding officer shall back the warrant or other process with his signature, and, in the case of a warrant of arrest, if the person named therein is within the limits of his command, shall cause him to be arrested and delivered to the officer so charged.

CHAPTER XXXIII.

INTERPLEADER.

470. When two or more persons claim adverse-

ly to one another the same When interpleader-suit may be instituted. payment or property from another person, whose only

interest therein is that of a mere stakeholder and who is ready to render it to the right owner, such stakeholder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property should be made or delivered, and of obtaining indemnity for himself:

Provided that if any suit is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaintiff

Plaint in such suit. must, in addition to the other statements necessary for complaints, state—

(a) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder ;

(b) the claims made by the defendants severally ; and

(c) that there is no collusion between the plaintiff and any of the defendants.

472. When the thing claimed is capable of being paid into court or placed in the custody of the Court, the plaintiff must so pay or place it before he can be entitled to any order in the suit.

473. At the first hearing the Court may—

(a) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit ;

or, if it thinks that justice or convenience so require,

(b) retain all parties until the final disposal of the suit ;

and, if it finds that the admissions of the parties or other evidence enable it,

(c) adjudicate the title to the thing claimed : or else it may

(d) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court, and shall adjudicate on such claims.

474. Nothing in this chapter shall be taken to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(a) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(b) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader suit against A and C.

475. When the suit is properly instituted, the Court may provide for the plaintiff's costs by giving him a charge on the thing claimed or in some other effectual way.

476. If any of the defendants in an interpleader-suit is actually suing the stakeholder in respect of the subject of such suit, the Court in which the suit against the stakeholder is pending shall, on being duly informed by the Court which passed the decree in the interpleader-suit in favour of the stakeholder, that such decree has

been passed, stay the proceedings as against him ; and his costs in the suit so stayed may be provided for in such suit ; but if, and so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

Costs.

PART IV.

PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

477. If at any stage of any suit, other than a suit for the possession of immoveable property, the plaintiff satisfies the Court by affidavit or otherwise—

that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,

(a) has absconded or left the jurisdiction of the Court, or

(b) is about to abscond or to leave the jurisdiction of the Court, or

(c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied—

that the defendant, with any such intent as aforesaid,

(a) has absconded or left the jurisdiction of the Court, or

(b) is about to abscond or to leave the jurisdiction of the Court, or

(c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under the circumstances last aforesaid,

the Court may issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance.

479. If the defendant fail to show such cause,

If defendant fail to show cause, Court may order him to make deposit or give security. the Court shall order him either to deposit in court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit.

The surety shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

480. The surety for the appearance of the

Procedure in case of application by surety to be discharged. defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

481. If the defendant fail to comply with any

Procedure where defendant fails to give security or find fresh security. order under section 479 or section 480, the Court may commit him to jail until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree: Provided that no person shall be imprisoned under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees:

Provided that no person shall be detained in prison under this section after he has complied with such order.

482. The provisions of section 339 as to allow-

Subsistence of defendants arrested. ances payable for the subsistence of judgment-debtors shall apply to all defendants arrested under this chapter.

B.—Attachment before Judgment.

483. If at any stage of any suit the plaintiff

Application before judgment for security from defendant to satisfy decree, and in default for attachment of property. satisfies the Court by affidavit or otherwise that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,

(a) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(b) has quitted the jurisdiction of the Court, leaving therein property belonging to him,

the plaintiff may apply to the Court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit and, on his failing to give such security, to direct that any portion of his property within the jurisdiction of the Court shall be attached until the further order of the Court.

The application shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

484. If the Court, after examining the appli-

Court may call on defendant to furnish security or show cause. cant and making any further investigation which it thinks fit, is satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him, the Court may require him, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the sum, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

485. If the defendant fail to show cause why he

Attachment if cause not shown or security not furnished. should not furnish security, or fail to furnish the security required, within the time fixed by the Court, the Court may order that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, shall be attached.

If the defendant show such cause or furnish the required security, and the withdrawal of attachment. property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

487. If any claim be preferred to the property

Investigation of claims to property attached before judgment. attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

488. When an order of attachment before judg-

Removal of attachment when security furnished or suit diminished. ment is passed, the Court which passed the order shall remove the attachment

whenever the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

489. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

490. Where property is under attachment by virtue of the provisions of this chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to re-attach the property in execution of such decree.

C.—Compensation for improper Arrests or Attachments.

491. If in any suit in which an arrest or attachment has been effected, it appears to the Court that such arrest or attachment was applied for on insufficient grounds,

or if the suit of the plaintiff fails, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment:

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

492. If in any suit it is proved by affidavit or otherwise—

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or is about, to remove or dispose of his property with intent to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or give such other

order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, or refuse such injunction or other order.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, whether compensation be claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

The Court may by order grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit, or refuse the same.

In case of disobedience, an injunction granted under this section or section 492 may be enforced by the imprisonment of the defendant for a term not exceeding six months, or the attachment of his property, or both.

No attachment under this section shall remain in force for more than one year, at the end of which time, if the defendant has not obeyed the injunction, the property attached may be sold, and out of the proceeds the Court may award to the plaintiff such compensation as it thinks fit, and may pay the balance, if any, to the defendant.

494. The Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

495. An injunction directed to a Corporation or public Company is binding not only on the Corporation or Company itself, but also on all members and officers of the Corporation or Company whose personal action it seeks to restrain.

496. Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

497. If it appears to the Court that an injunction which it has granted was applied for on insufficient grounds, or

if, after the issue of the injunction, the suit is dismissed or judgment is given against the plaintiff by default or otherwise, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it

deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction :

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

B.—Interlocutory Orders.

498. The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any moveable property, being the subject of such suit, which is subject to speedy and natural decay.

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit, (a) make an order for the detention, preservation or inspection of any property being the subject of such suit ;

(b) for all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any other party to such suit, and

(c) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

The provisions hereinbefore contained as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this section.

500. An application by the plaintiff for an order under section 498 or section 499 may be made after notice in writing to the defendant at any time after service of the summons.

An application by the defendant for a like order may be made after notice in writing to the plaintiff, and at any time after the applicant has appeared.

501. When land paying revenue to Government, or a tenure liable to sale, is the subject of a suit, if the party in possession of such land or tenure neglects to pay the Government-revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure ;

and the Court in its decree may award against the defaulter the amount so paid, with interest thereupon at such rate as the Court thinks fit, or may charge the amount so paid, with interest thereupon at such rate as the Court orders, in any adjustment of accounts which may be directed in the decree passed in the suit.

502. When the subject-matter of a suit is money or some other thing capable of delivery, and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in court or delivered to such last-named party, with or without security, subject to the further direction of the Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS.

503. Whenever it appears to the Court to be necessary for the realization, preservation or better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may by order—

(a) appoint a Receiver of such property, and, if need be,

(b) remove the person in whose possession or custody the property may be from the possession or custody thereof ;

(c) commit the same to the custody or management of such Receiver ; and

(d) grant to such Receiver such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the realization, management, protection preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the Court thinks fit.

Receiver's liabilities. Every Receiver so appointed shall—

(e) give such security (if any) as the Court thinks fit duly to account for what he shall receive in respect of the property ;

(f) pass his accounts at such periods and in such form as the Court directs ;

(g) pay the balance due from him thereon as the Court directs ; and

(h) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Nothing in this section authorizes the Court to remove from the possession or custody of property under attachment any person whom the parties to the suit, or some or one of them, have or has not a present right so to remove.

(d) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged ;

(e) settling a scheme for its management ;
or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate General may, outside the Presidency-towns, be, with the previous sanction of the Local Government, exercised also by the Collector or by such officer as the Local Government may appoint in this behalf.

Act No. X of 1840, section two, is hereby repealed.

PART VI. OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

540. Unless when otherwise expressly provided by this Code or by any other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

541. The appeal shall be made in the form of a memorandum in writing presented by the appellant, and shall be accompanied by a copy of the decree appealed against and (unless the Appellate Court dispenses therewith) of the judgment on which it is founded.

Such memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative ; and such grounds shall be numbered consecutively.

542. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant :

Provided that the Court shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court or be amended then and there.

When the Court rejects under this section any memorandum, it shall record the reasons for such rejection.

When a memorandum of appeal is amended under this section, the Judge, or such officer as he appoints in this behalf, shall attest the amendment by his signature.

544. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and thereupon the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants, as the case may be.

Of staying and executing Decrees under Appeal.

545. Execution of a decree shall not be stayed by reason only of an appeal not stayed solely by having been preferred against the decree ; but the appellate Court may for sufficient cause order the execution to be stayed :

If an application be made for stay of execution of an appealable decree before the expiry of the time for appealing therefrom, the Court which passed the decree may for sufficient cause order the execution to be stayed :

Provided that no order shall be made under this section unless the Court making it is satisfied—

(a) that substantial loss may result to the party applying for stay of execution unless the order is made ;

(b) that the application has been made without unreasonable delay ; and

(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

546. If an order is made for the execution of a decree against which an order for execution of appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Appellate Court,

or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

And when an order has been passed for the sale of immoveable property in execution of a decree for money, and an appeal is pending against such decree, the sale shall on the application of the

judgment-debtor be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the Court which passed the decree thinks fit.

547. No such security as is mentioned in

No such security to be required from Government or public officers.

sections 545 and 546 shall be required from the Secretary of State for India in Council, or (when Government has undertaken the defence of the suit) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

Of Procedure in Appeal from Decrees.

548. When a memorandum of appeal is admitted, the Appellate Court

Registry of memorandum of appeal.

or the proper officer of that Court shall endorse thereon the date of presentation, and shall register the appeal in a book to be kept for the purpose.

Register of Appeals. Such book shall be called the Register of Appeals.

549. The Appellate Court may at its discretion,

Appellate Court may require appellant to give security for costs.

either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both :

Provided that the Court shall demand such

When appellant resides out of British India. security in all cases in which the appellant is residing out of British India, and is not

possessed of any sufficient immoveable property within British India independent of the property (if any) to which the appeal relates.

If such security be not furnished within such time as the Court orders, the Court shall reject the appeal.

550. When the memorandum of appeal is regis-

Appellate Court to give notice to Court whose decree appealed against.

tered, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made.

If the appeal be from a Court the records of

Transmission of papers to Appellate Court.

which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

Either party may apply in writing to the Court

Copies of exhibits in Court whose decree appealed against.

against whose decree the appeal is made, specifying any of such papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited accordingly.

551. The Appellate Court may, if it thinks fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the Court against whose decree the appeal is made, without sending notice of the appeal to such Court and without serving notice on the respondent or his pleader; but in such case the confirmation shall be notified to the same Court.

552. The Appellate Court, unless where it confirms, under section 551, the decision of the lower Court, shall fix a day for hearing the appeal.

Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

553. Notice of the day so fixed shall be stuck up in the appellate court-house, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided in Chapter VI for the service on a defendant of a summons to appear and answer; and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice.

Instead of sending the notice to the Court Appellate Court may against whose decree the itself cause notice to be served. appeal is made, the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the rules above referred to.

554. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Procedure on Hearing.

555. On the day so fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

556. If on the day so fixed, or any other day to which the hearing may be adjourned, the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

557. If on the day so fixed, or any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed:

Provided that no such order shall be passed, although the notice has not been served upon the respondent, if on the day fixed for hearing the appeal the respondent appears in person or by a pleader, or by a duly authorized agent.

558. If an appeal be dismissed under section 556 or section 557, the appellant may apply to the Appellate Court for the re-admission of the appeal; and if it be proved that he was prevented by any sufficient cause from attending when the appeal was called on for hearing or from depositing the sum so required, the Court may re-admit the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

559. If it appear to the Court at the hearing that any person who was a party to the suit in the Court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court, and direct that such person be made a respondent.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and if he satisfies the Court that the notice was not duly served, or that he was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

561. Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal.

Such objection shall be in the form of a memorandum, and the provisions applicable of section 541, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

562. If the Court against whose decree the appeal is made has disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties, and the decree upon such preliminary point is reversed in appeal, the appellate Court may, if it thinks fit, by order remand the case, together with a copy of the order in appeal, to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the register and proceed to investigate the suit on the merits.

The Appellate Court may, if it thinks fit, direct what issue or issues shall be tried in any case so remanded.

563. When a case is remanded with directions to take any evidence so excluded, the Court to which the case is remanded shall not take any other evidence in the case, except evidence tendered to contradict the evidence so taken.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall, after resettling the issues, if necessary, finally determine the case, notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

566. If the Court against whose decree the appeal is made has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and in such case shall direct such Court to take the additional evidence required,

and such Court shall proceed to try such issues, and shall return to the Appellate Court its finding thereon together with the evidence.

567. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by

the Appellate Court, present a memorandum of objections to the finding.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

568. The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if

(a) the Court against whose decree the appeal is made refuses to admit evidence which ought to have been admitted, or

(b) the Appellate Court requires any document to be produced for any witness to be examined to enable it to pronounce judgment; or for any other substantial cause,

the Appellate Court may allow such evidence to be produced, or document to be received, or witness to be examined.

Whenever additional evidence is admitted by an Appellate Court, the Court shall record on its proceedings the reason for such admission.

569. Whenever additional evidence is allowed to be received, the Appellate Court may either take such evidence, or direct the Court against whose decree the appeal is made, or any other subordinate Court, to take such evidence and to send it when taken to the Appellate Court.

570. In all cases where additional evidence is directed or allowed to be taken, the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Of the Judgment in Appeal.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

572. The judgment shall be written in English; provided that if English is not the mother-tongue of the Judge, and he is not able to write an intelligible judgment in English, the judgment shall be written in his mother-tongue or in the language of the Court.

573. When the language in which the judgment is written is not the language of the Court, the judgment shall, if any party so require, be translated into such language, and the translation, after it has been ascertained to be

correct, shall be signed by the Judge or such officer as he appoints in this behalf.

574. The judgment of the Appellate Court shall state—

- (a) the points for determination;
- (b) the decision thereupon;
- (c) the reasons for the decision; and,
- (d) when the decree appealed against is reversed or varied, the relief to which the appellant is entitled,

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.

575. When the appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

If there be no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed:

Provided that if the Bench hearing the Appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who have heard the appeal, including those who first heard it.

When there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

The High Court may from time to time make rules consistent with this Code to regulate references under this section.

576. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

577. The judgment may be for confirming, varying or reversing the decree against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be passed in appeal, the Appellate Court may pass a decree or order accordingly.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

595. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained,

an appeal shall lie to Her Majesty in Council—

(a) from any final decree passed on appeal by a High Court or any other Court of final appellate jurisdiction ;

(b) from any final decree passed by a High Court in the exercise of original civil jurisdiction, and

(c) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

596. In each of the cases mentioned in clauses (a) and (b) of section 595,

the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal must involve some substantial question of law.

597. Notwithstanding anything contained in section 595,

no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being ;

and no appeal shall lie to Her Majesty in Council from any decree which, under section 586, is final.

598. Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

599. Such application must ordinarily be made within six months from the date of such decree.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

600. Every petition under section 598 must state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of section 596, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

601. If such certificate be refused, the petition shall be dismissed :

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable, within thirty days from the date of the order, to the High Court to which the former Court is subordinate.

602. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,

(a) give security for the costs of the respondent, and

(b) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except

(1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being ;

(2) papers which the parties agree to exclude ;

(3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included, and

(4) such other documents as the High Court may direct to be excluded :

and when the applicant prefers to print in India the copy of the record, except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

603. When such security has been completed and deposit made to the satisfaction of the Court, the Court may

(a) declare the appeal admitted, and

(b) give notice thereof to the respondent, and shall then

(c) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and

(d) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

604. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

605. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

or further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

606. If the appellant fail to comply with such order, the proceedings shall be stayed,

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,

and in the meantime execution of the decree appealed against shall not be stayed.

607. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section 602.

608. Notwithstanding the admission of any appeal under this chapter, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs.

But the Court may, if it thinks fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court,

(a) impound any moveable property in dispute or any part thereof, or

(b) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or

(c) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or

(d) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal, as it thinks fit.

609. If, at any time during the pendency of the appeal, the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security.

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

610. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.

When any moneys expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

611. The orders made by the Court which enforces or executes the order of Her Majesty in Council, relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

612. The High Court may, from time to time, make rules consistent with this Act to regulate—

- (a) the service of notices under section 600;
- (b) the grant or refusal of certificates, under sections 601 and 602, by Courts of final appellate jurisdiction subordinate to the High Court;
- (c) the amount and nature of the security required under sections 602, 605 and 609;
- (d) the testing of such security:

(e) the estimate of the cost of transcribing the record;

(f) the preparation, examination and certifying of such transcript;

(g) the revision and authentication of translations;

(h) the preparation of indices to transcripts of records, and of lists of the papers not included therein;

(i) the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council,

and all other matters connected with the enforcement of this chapter.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

613. All rules heretofore made and published by any High Court relating to appeal to Her Majesty in Council and in force immediately before the passing of this Act, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

614. In sections 595 and 612, the expression 'High Court' shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

615. The rules and restrictions referred to in Bengal Regulation III of 1828, section 4, clause 5, shall be deemed to be the rules and restrictions applicable to appeals under this Code from the decisions of the High Court of Judicature at Fort William in Bengal.

Saving of Her Majesty's pleasure,

616. Nothing herein contained shall be understood—

(a) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to Her Majesty in Council, or their conduct before the said Judicial Committee.

And nothing in this chapter applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, or to appeals from orders and decrees of Prize Courts.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

617. If before or on the hearing of a suit or an appeal in which the decree is final, or if in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Court trying the suit or appeal, or executing the decree, entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

618. The Court may either stay the proceedings or proceed in the case notwithstanding such reference, and may pass a decree or order contingent upon the opinion of the High Court on the point referred;

but no execution shall be issued, property sold, or person imprisoned in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon such reference.

619. The High Court shall hear the parties to the case in which the reference is made, in person or by their respective pleaders, and shall decide the point so referred, and shall transmit a copy of its judgment, under the signature of the Registrar, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

620. Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the case.

621. When a case is referred to the High Court under this chapter, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed in the case out of which the reference arose, and make such order as it thinks fit.

622. The High Court may call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of its jurisdiction illegally or with

material irregularity ; and may pass such order in the case as the High Court thinks fit.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

623. Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred ;

(b) by a decree or order from which no appeal is hereby allowed ; or

(c) by a judgment on a reference from a Court of Small Causes,

and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the Court which passed the decree or made the order, or to the Court, if any, to which the business of the former Court has been transferred.

A party who is not appealing from a decree may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except when the ground of such appeal is common to the applicant and the appellant, or when, being a respondent, he can present to the Appellate Court the case on which he applies for the review.

624. Except upon the ground of the discovery of such new and important matter or evidence as aforesaid, or of some clerical error apparent on the face of the decree, no application for a review of judgment, other than that of a High Court, shall be made to any Judge other than the Judge who delivered it.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

626. If it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

If the Court be of opinion that the application for the review should be granted, it shall grant the same, and the Judge shall

record with his own hand his reasons for such opinion :

Proviso.

Provided that—

(a) no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for ; and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him, when the decree or order was passed, without strict proof of such allegation.

627. If the Judge or Judges, or any one of the Judges, who passed the decree or order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

628. If the application for a review be heard by more than one Judge and the Court be equally divided, the application shall be rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. An order of the Court for rejecting the application shall be final ; but whenever such application is admitted, the admission may be objected to on the ground that it was

(a) in contravention of the provisions of section 624,

(b) in contravention of the provisions of section 626, or

(c) after the expiration of the period of limitation prescribed therefor and without sufficient cause.

Such objection may be made at once by an appeal against the order granting the application, or may be taken in any appeal against the final decree or order made in the suit.

Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and, if it be proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court may order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

No order shall be made under this section unless the applicant has served the opposite party with notice in writing of the latter application.

No application to review an order passed on review or on an application for a review shall be entertained.

630. When an application for a review is granted, a note thereof shall be made in the register, and the Court may at once rehear the case or make such order in regard to the re-hearing as it thinks fit.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This chapter applies only to High Courts which are or may hereafter be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*).

632. Except as provided in this chapter the provisions of this Code apply to such High Courts.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

634. Whenever a High Court considers it necessary that a decree made in the exercise of its ordinary original civil jurisdiction should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs ;

and, as to so much thereof as relates to the costs, execution for costs that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

635. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its ordinary original civil jurisdiction, or to examine witnesses, except when the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

636. Notices to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the ordinary or extraordinary original civil jurisdiction of the High Court, and of its matrimonial, testamentary

and intestate jurisdictions, except summonses to defendants issued under section 64, writs of execution, and notices under section 553, may be served by the attorneys in the suit, or by persons employed by them, or by such other persons as the High Court by any rule or order from time to time directs.

637. Any non-judicial or quasi-judicial act which this Code requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to do such act.

The High Court may from time to time by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

638. The following portions of this Code shall not apply to the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, namely, sections 16, 17 and 19, sections 54, clauses (a) and (b), 57, 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 192 (so far as relates to the manner of taking evidence), 198 to 206 (both inclusive), and so much of section 409 as relates to the making of a memorandum ;

and section 579 shall not apply to the High Court in the exercise of its appellate jurisdiction.

Nothing in this Code shall extend or apply to any Judge of a High Court in the exercise of jurisdiction as an Insolvent Court.

639. The High Court may from time to time frame forms for any proceeding in such Court, and may make rules as to the books, entries and accounts to be kept by its officers.

PART X.

CHAPTER XLIX.

MISCELLANEOUS.

640. Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

641. The Local Government may, by notification in the official Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitles him to the

privilege of exemption, and may, by like notification, withdraw such privilege.

The names and residences of the persons so exempted shall from time to time be forwarded to the High Court by the Local Government, and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court subordinate to the High Court shall be kept in such subordinate Court.

When any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

642. No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his Court.

And, except as provided in sections 256 and 643, where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtars, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under civil process while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal.

643. When in a case pending before any Court, there appears to the Court sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in section 193, section 196, section 199, section 200, section 205, section 206, section 207, section 208, section 209, section 210, section 463, section 471, section 474, section 475, section 476 or section 477 of the Indian Penal Code, which may be made in the course of any other suit or proceeding, or with respect to any document offered in evidence in the case, the Court may cause the person accused to be detained till the rising of the Court, and may then send him in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and may bind over any person to appear and give evidence before such Magistrate.

The Magistrate shall receive such charge and proceed with it according to law.

644. Subject to the power conferred on the High Court by section 639 and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the fourth schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

645. The language which, when this Code comes into force, is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until the Local Government otherwise orders;

but it shall be lawful for the Local Government from time to time to declare what language shall be the language of every such Court.

645A. In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may if it thinks fit, and upon request of either party to such cause shall, summon to its assistance, in such manner as the Court may by rule, from time to time, direct, two competent assessors; and such assessors shall attend and assist accordingly.

Every such assessor shall receive such fees for his attendance as the Court by rule prescribes. Such fees shall be paid by such of the parties as the Court in each case may direct.

646. Whenever the Registrar of a Court of Small Causes has any doubt upon any question of law or usage having the force of law, or as to the construction of a document, which construction may affect the merits of the decision, he may state a case for the opinion of the Judge; and all the provisions herein contained relative to the stating of a case by the Judge shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

647. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction other than suits and appeals.

The High Court may from time to time make rules to provide for the admission, in such proceedings, of affidavits as evidence of the matters to which such affidavits respectively relate; and such rules, on being published in the local official Gazette, shall have the force of law.

648. Where any Court desires that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or property is situate outside the local limits of its jurisdiction, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be

made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment;

and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he furnishes sufficient security for his appearance before that Court, or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by such Court, in either of which cases the Court making the arrest shall release him.

649. The rules contained in Chapter XIX shall

Rules applicable to all apply to the execution of civil process for arrest, any judicial process for the sale or payment. arrest of a person or the sale of property or payment of money, which may be desired or ordered by a Civil Court in any civil proceeding.

In the same chapter, the expression 'Court which passed a decree', or words to that effect, shall, unless there is something repugnant in the context, be deemed to include, where the decree to be executed is passed in appeal, the Court which passed the decree against which the appeal was preferred, and, where the Court which passed the decree to be executed has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making application for execution of the decree, would have jurisdiction to try such suit.

650. The provisions of Chapters XIV and XV

Application of rules as relating to witnesses shall to witnesses. apply to all persons required to give evidence or to produce documents in any proceeding under this Code.

650 A. Summonses issued by any Civil or Revenue Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts: Provided that the Courts issuing such summonses have been established by the authority of the Governor General in Council, or that the Governor General in Council has, by notification in the *Gazette of India*, declared the provisions of this section to apply to such Courts.

The Governor General in Council may by like notification cancel any notification made under this section, but not so as to invalidate the service of any summons served previous to such cancellation.

651. Whoever offers any resistance or illegal

Penalty for resisting obstruction to the lawful apprehension of himself under this Code, or under the warrant of any Civil or Revenue Court, or escapes or attempts to escape from any custody in which he is lawfully detained under this Code or under such warrant, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

652. The High Court may from time to time

Power to make subsidiary rules consistent with this Code to regulate any matter connected with its own procedure or the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

THE FIRST SCHEDULE.

(See section 3.)

ACTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
X of 1877	The Code of Civil Procedure	So much as has not been repealed.
XII of 1879	Amending Act X of 1877, &c.	Sections one to one hundred and three (both inclusive).
VII of 1880	Merchant Shipping	Section eighty-five.

THE SECOND SCHEDULE.

(See section 5.)

Chapters and Sections of this Code extending to Provincial Courts of Small Causes.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER	I.—Of the Jurisdiction of the Courts and <i>Res Judicata</i> , except section 11.
CHAPTER	II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).
CHAPTER	III.—Of Parties and their Appearances, Applications and Acts.
CHAPTER	IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.
CHAPTER	V.—Of the Institution of Suits.
CHAPTER	VI.—Of the Issue and Service of Summons, except section 77.
CHAPTER	VII.—Of the Appearance of the Parties and Consequence of Non-appearance.
CHAPTER	VIII.—Section 111, Set-off.
CHAPTER	IX.—Of the examination of the Parties by the Court, except section 119.
CHAPTER	X.—Of Discovery and the Admission, &c., of Documents.
CHAPTER	XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.
CHAPTER	XIII.—Of Adjournments.
CHAPTER	XIV.—Of the Summoning and Attendance of Witnesses.
CHAPTER	XV.—Of the Hearing of the suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).
CHAPTER	XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.
CHAPTER	XVIII.—Sections 220, 221 and 222, Of Costs.
CHAPTER	XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immovable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 280 (both inclusive), 283, 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).
CHAPTER	XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.
CHAPTER	XXI.—Of the Death, Marriage and Insolvency of Parties.
CHAPTER	XXII.—Of the Withdrawal and Adjustment of Suits.
CHAPTER	XXIII.—Of payment into Court.
CHAPTER	XXIV.—Of requiring Security for Costs.
CHAPTER	XXV.—Of Commissions.
CHAPTER	XXVI.—Suits by Paupers.
CHAPTER	XXVII.—Suits by and against Government or Government Servants.
CHAPTER	XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except the first paragraph of section 433.
CHAPTER	XXIX.—Suits by and against Corporations and Companies.

THE SECOND SCHEDULE—concluded.

Chapters and Sections of this Code extending to Provincial Courts of Small Causes—concluded.

CHAPTER	XXX.—Suits by and against Trustees, Executors and Administrators.
CHAPTER	XXXI.—Suits by and against Minors and Persons of unsound Mind.
CHAPTER	XXXII.—Suits by and against Military Men.
CHAPTER	XXXIII.—Interpleader.
CHAPTER	XXXIV.—Of Arrest and Attachment before Judgment, except as regards immoveable property.
CHAPTER	XXXVI.—Appointment of Receivers.
CHAPTER	XXXVII.—Reference to Arbitration, sections 506 to 526 (both inclusive).
CHAPTER	XXXVIII.—Of Proceedings on Agreement of Parties.
CHAPTER	XLVI.—Reference to and Revision by High Court.
CHAPTER	XLVII.—Of Review of Judgment.
CHAPTER	XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sections 649 to 652 (both inclusive).

THE THIRD SCHEDULE.

(See section 7.)

Bombay Enactments.

Bombay Regulation XXIX,	1827.
"	" VII, 1830.
"	" 1, 1831.
"	" XVI, 1831.
Act XIX of	1835.
" XIII of	1842.

THE FOURTH SCHEDULE.

(See section 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PLAINTS. PART I.

No. 1.

FOR MONEY LENT.

IN THE COURT OF . . . AT . . .
Civil Suit No. . . .

A. B. of
against
C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That on the . . . day of . . . 18 . . . , at . . . , he lent the defendant . . . rupees repayable on demand [or on the . . . day of . . .] .
2. That the defendant has not paid the same, except . . . rupees paid on the . . . day of . . . 18 . . .
- [If the plaintiff claims exemption from any law of limitation, say :—
3. The plaintiff was a minor [or insane] from the . . . day of . . . till the . . . day of . . .] .
4. The plaintiff prays judgment for . . . rupees, with interest at . . . per cent. from the . . . day of . . . 18 . . .

[Note.—The object of stating when the debt is to be repaid is merely to fix a date for interest. If, therefore, interest is not claimed, the statement may be omitted.

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(Title.)

A. B and G. H., the above-named plaintiffs, state as follows:—

1. That on the . . . day of . . . 18 . . . , at . . . , the defendant received . . . rupees [or a cheque on the . . . Bank for . . . rupees] from one . . . E. F. for the use of the plaintiffs.
2. That the defendant has not paid [or delivered] the same accordingly.
3. The plaintiffs pray judgment for . . . rupees, with interest at . . . per cent. from the . . . day of . . . 18 . . .

THE FOURTH SCHEDULE—*continued.*

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , he and *E. F.*, since deceased, delivered to the defendant [*one thousand barrels of flour, five hundred maunds of rice, or as the case may be*] for sale upon commission.
2. That on the day of 18, [*or, on some day unknown to the plaintiff, before the day of 18*], the defendant sold the said merchandise for rupees.
3. That the commission and expenses of the defendant thereon amount to rupees.
4. That on the day of 18, the plaintiff demanded from the defendant the proceeds of the said merchandise.
5. That he has not paid the same.

[*Demand of judgment.*]

No. 4.

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at annas per tola of fine silver.
2. That the plaintiff procured the said bars, to be assayed by one *E. F.*, who was paid by the defendant for such assay, and that the said *E. F.* declared each of the said bars to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant Rs. annas therefor.
3. That each of the said bars did contain only 1,200 tolas of fine silver.
4. That the defendant has not repaid the sum so overpaid.

[*Demand of judgment.*]

[NOTE.—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , at the request [*or by the authority*] of the defendant, the plaintiff paid to one *E. F.* rupees.
2. That, in consideration thereof, the defendant promised [*or became bound*] to pay the same to the plaintiff on demand [*or as the case may be*].
3. That [*on the day of 18*], the plaintiff demanded payment of the same from the defendant, but [*he has not paid the same.*]

[*Demand of judgment.*]

[NOTE.—If the request or authority is implied, the plaintiff should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , *E. F.*, of , deceased, sold and delivered to the defendant [*one hundred barrels of flour, or, the goods mentioned in the schedule hereto annexed, or, sundry goods*].
2. That the defendant promised to pay rupees for the said goods on delivery [*or, on the day of some day before the plaint was filed*].
3. That he has not paid the same.
4. That the said *E. F.*, in his lifetime made his will, whereby he appointed the plaintiff executor thereof.
5. That on the day of 18, the said *E. F.* died.
6. That on the day of probate of the said will was granted to the plaintiff by the Court of .
7. The plaintiff as executor as aforesaid [*Demand of judgment*].

[NOTE.—If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.]

THE FOURTH SCHEDULE—*continued.*

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, plaintiff sold and delivered to the defendant [sundry articles of house-furniture] but no express agreement was made as to the price.

2. That the same were reasonably worth _____ rupees.

3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—The law implies a promise to pay so much as the goods are reasonably worth.]

No. 8.

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, plaintiff sold to the defendant [one hundred barrels of flour] and, at the request of the defendant, delivered the same to one *E. F.*

2. That the defendant promised to pay to the plaintiff _____ rupees therefor.

3. That he has not paid the same.

[Demand of judgment.]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, plaintiff furnished to [*Mary Jones*] the wife of [*James Jones*] deceased, at her request, sundry articles of [*food and clothing*], but no express agreement was made as to the price.

2. That the same were necessary for her.

3. That the same were reasonably worth _____ rupees.

4. That the said *James Jones* refused to pay the same.

5. That the defendant is the executor of the last Will of the said *James Jones*.

[Demand of judgment.]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, the plaintiff sold to *E. F.*, of _____, deceased, [*all the crops then growing on his farm in*].

2. That the said *E. F.* promised to pay the plaintiff _____ rupees for the same.

3. That he did not pay the same.

4. That the defendant is administrator of the estate of the said *E. F.*

[Demand of judgment.]

THE FOURTH SCHEDULE—*continued.*

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.*, of , sold to the defendant [*all the fruit growing in his orchard in*], but no express agreement was made as to the price.

2. That the same was reasonably worth rupees.

3. That the defendant has not paid the same.

4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the plaintiff committee of his estate, with the usual powers for the management thereof.

5. The plaintiff as committee as aforesaid [*Demand of judgment.*]

[NOTE.—When the lunatic's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 4 and 5 substitute the following:—]

4. That on the day of the Civil Court of duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs, and appointed the plaintiff Manager of his estate.

5. The plaintiff as Manager as aforesaid.

[*Demand of judgment.*]

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.*, of , agreed with the plaintiff that the plaintiff should make for him [*six tables and fifty chairs*], and that the said *E. F.* should pay for the same upon delivery thereof rupees.

2. That the plaintiff made the said goods, and on the day of 18 , offered to deliver the same to the said *E. F.*, and has ever since been ready and willing so to do.

3. That the said *E. F.* has not accepted the said goods or paid for the same.

4. That on the day of 18 , the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic, and appointed the defendant committee of his estate.

5. The plaintiff prays judgment for rupees with interest from the day of , at the rate of per cent. per annum, to be paid out of the estate of the said *E. F.* in the hands of the defendant.

No. 13.

FOR DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff put up at auction sundry [*articles of merchandise*], subject to the condition that all goods not paid for and removed by the purchaser thereof within [*ten days*] after the sale, should be re-sold by auction on his account, of which condition the defendant had notice.

2. That the defendant purchased [*one crate of crockery*] at the said auction at the price of rupees.

3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for [*ten days*] thereafter, of which the defendant had notice.

4. That the defendant did not take away the said goods purchased by him, nor pay therefor, within [*ten days*] after the sale, nor afterwards.

5. That on the day of 18 , at , the plaintiff re-sold the said [*crate of crockery*], on account of the defendant, by public auction, for rupees.

6. That the expenses attendant upon such re-sale amounted to rupees.

7. That the defendant has not paid the deficiency thus arising, amounting to rupees.

[*Demand of judgment.*]

[NOTE to § 4.—Unless the seller agreed to deliver, the purchaser must fetch the goods; see Act IX of 1872, section 93.]

THE FOURTH SCHEDULE—*continued.*

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(Title).

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of , or, a farm known as , in or, a piece of land lying, &c.]
2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, or farm, or land].
3. That he has not paid the same.

[Demand of judgment.]

[NOTE.—Where there has been no actual conveyance, say, in § 1. "sold to the defendant the house, &c., and placed him in possession of the same."]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No. , in the town of , or one hundred bighás of land in , bounded by the East Indian railroad, and by other lands of the plaintiff] for rupees.
2. That on the day of 18 , at , the plaintiff tendered [or, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.
3. That the defendant has not paid the said sum.

[Demand of judgment.]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].
2. That from the [said day] until the day of 18 , the plaintiff served the defendant as his [clerk].
3. That the defendant has not paid the said salary.

[Demand of judgment.]

No. 17.

FOR SERVICES AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That between the day of 18 , and the day of 18 at , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.
2. That the said services were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—*continued*.

No. 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff [furnished the paper for and printed one thousand copies of a book called] for the defendant, at his request [and delivered the same to him].
2. That the defendant promised to pay rupees therefor.
3. That he has not paid the same.

[Demand of judgment.]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff built a house [known as No. , in], and furnished the materials therefor, for the defendant, at his request, but no express agreement was made as to the price to be paid for such work and materials.
2. That the said work and materials were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 20.

FOR RENT RESERVED IN A LEASE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into a contract with the plaintiff, under their hands, a copy of which is hereto annexed.

[Or state the substance of the contract.]

2. That the defendant has not paid the rent of the [month] ending on the day of 18 , amounting to rupees.

[Demand of judgment.]

Another Form.

1. That the plaintiff let to the defendant a house, No. 27, Chowringhee, for seven years to hold from the day of 18 , at rupees a year, payable quarterly.
2. That of such rent quarters are due and unpaid.

[Demand of judgment.]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant hired from the plaintiff [the house No. , street], at the rent of rupees, payable on the first day of .
2. That the defendant occupied the said premises from the day of 18 to the day of 18 .
3. That the defendant has not paid rupees, being the part of said rent due on the first day of 18 .

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(Title.)

A. B., the above-named plaintiff, executor of the will of *X. Y.*, deceased, states as follows:—

1. That the defendant occupied the [house No. , 18 street], by permission of the said *X. Y.*, from the day of 18 , until the day of 18 , and no agreement was made as to payment for the use of the said premises.
2. That the use of the said premises for the said period was reasonably worth rupees.
3. That the defendant has not paid the same.
4. The plaintiff as such executor as aforesaid prays judgment for rupees.

No. 23

FOR BOARD AND LODGING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That from the day of 18 , until the day of 18 , the defendant occupied certain rooms in the house [No. street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessaries.
2. That, in consideration thereof, the defendant promised to pay [or That no agreement was made as to payment for such meat, drink, attendance or necessaries, but the same were reasonably worth] the sum of rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 24.

FOR FREIGHT OF GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff transported in [his barge, or otherwise] [one thousand barrels of flour, or sundry goods], from to , at the request of the defendant.
2. That the defendant promised to pay the plaintiff the sum of [one rupee per barrel] as freight thereon [or, That no agreement was made as to payment for such transportation, but such transportation was reasonably worth rupees].
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 25.

FOR PASSAGE-MONEY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff conveyed the defendant [in his ship, called the , from to , at his request.
2. That the defendant promised to pay the plaintiff rupees therefor. [or That no agreement was made as to the price of the said passage, but the said passage was reasonably worth rupees].
3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 26.

ON AN AWARD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators [or, entered into an agreement, a copy of which is hereto annexed].
2. That on the day of 18 , at , the said arbitrators awarded that the defendant should [pay the plaintiff rupees].
3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—This will apply where the agreement to refer is not filed in court.]

No. 27.

ON A FOREIGN JUDGMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , in the State [or Kingdom] of , the Court of that State [or Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.
2. That the defendant has not paid the same.

[Demand of judgment.]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half-yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.
2. That afterwards, on the day of 18 , the sum of rupees for of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[Demand of judgment.]

No. 29.

PAYER AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his promissory note now overdue, promised to pay to the plaintiff rupees [days] after date.
2. That he has not paid the same [except rupees, paid on the day of 18].

[Demand of judgment.]

[NOTE.—Where the note is payable after notice, for paragraphs 1 and 2 substitute:—]

1. That on the day of 18 , at , the defendant by his promissory note promised to pay to the plaintiff rupees months after notice.

THE FOURTH SCHEDULE—*continued*.

2. That notice was afterwards given by the plaintiff to the defendant to pay the same months after the said notice.
3. That the said time for payment has elapsed, but the defendant has not paid the same.

[*Where the note is payable at a particular place, say—*]

1. That on the day of 18 , at , the defendant by his promissory note, now overdue, promised to pay to the plaintiff [at Messrs. A. & Co.'s, Madras] rupees months after date.
2. That the said note was duly presented for payment [at Messrs. A. & Co.'s] aforesaid, but has not been paid.

Written Statement of the Defendant.

IN THE COURT, &c.

C. D., the above-named defendant, states as follows :—

1. The defendant made the note sued upon under the following circumstances: The plaintiff and defendant had for some years been in partnership as indigo-manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, and that the defendant should take over the whole of the partnership-assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.
2. The plaintiff thereupon undertook to examine the partnership-books and inquire into the state of the partnership-assets and liabilities; and he did accordingly examine the said books and make the said inquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact was that the assets of the firm were less than Rs. 50,000 and the liabilities of the firm largely exceeded the assets.
3. The misrepresentations mentioned in the second paragraph of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note

No. 30.

FIRST INDORSEE AGAINST MAKER.

(*Title*).

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, by his promissory note, now overdue, promised to pay to the order of E. F. [or to E. F. or order] rupees [days after date].
2. That the said E. F. indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment*].

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(*Title*).

A. B., the above-named plaintiff, states as follows :—

1. [*As in the last preceding form.*]
2. That the same was, by the indorsement of the said E. F. and of G. H. and I. J. [or and others] transferred to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment*].

No. 32

FIRST INDORSEE AGAINST FIRST INDORSEE.

(*Title*).

A. B., the above-named plaintiff, states as follows :—

1. That E. F., on the day of 18 , at , by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.

THE FOURTH SCHEDULE—continued.

2. That the defendant indorsed the same to the plaintiff.
 3. That on the day of 18 , the same was duly presented for payment, but was not paid.
 [Or state facts excusing want of presentment.]
 4. That the defendant had notice thereof.
 5. That he has not paid the same.

[Demand of judgment.]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one *E. F.* a promissory note, now overdue, made [or purporting to have been made] by one *G. H.*, on the day of 18 , at , to the order of the defendant, for the sum of rupees [payable days after date].
 2. That the same was, by the indorsement of the said *E. F.* [and others], transferred to the plaintiff. [or That the said *E. F.* indorsed the same to the plaintiff.]
 3, 4 and 5. [Same as 3, 4 and 5 of the last preceding form.]

[Demand of judgment.]

No. 34.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to him a promissory note, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant.
 2, 3 and 4. [Same as in 3, 4 and 5 in Form No. 33.]

[Demand of judgment.]

No. 35.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a promissory note, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.
 2, 3 and 4. [As in No. 33.]

[Demand of judgment.]

No. 36.

SUBSEQUENT INDORSEE AGAINST MAKER, AND FIRST AND SECOND INDORSER.

IN THE COURT OF

AT

Civil Suit No.

A. B. of
 against
C. D. of
E. F. of
 and
G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, *C. D.*, by his promissory note, now overdue, promised to pay to the order of the defendant, *E. F.*, rupees [months after date].

THE FOURTH SCHEDULE—continued.

8. That the rent aforesaid for the month of 18 , amounting to rupees, has not been paid.

[If, by the terms of the agreement, notice is required to be given to the surety, add:—]

4. That on the day of 18 , the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5. That he has not paid the same.

[Demand of judgment.]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[Or, That on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of rupees then paid, and of the further sum of [ten thousand] rupees payable as hereinafter mentioned, he would, on the day of 18 , at , execute to the plaintiff a sufficient conveyance of [the house No. , street, in the city of , free from all incumbrances; and the plaintiff agreed to pay [ten thousand] rupees for the same on delivery thereof].

2. That on the day of 18 , the plaintiff demanded the conveyance of the said property from the defendant and tendered rupees to the defendant [or, That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.]

3. That the defendant has not executed any conveyance of the said property to the plaintiff [or, That there is a mortgage upon the said property, made by to , for rupees, registered in the office of , on the day of 18 , and still unsatisfied, or any other defect of title].

4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

5. The plaintiff prays judgment for rupees compensation.

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[Or, That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant and that the defendant should purchase from the plaintiff forty bighas of land in the village of for rupees.]

2. That on the day of 18 , at , the plaintiff, being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [or, was ready and willing; and offered, to convey the same to the defendant by a sufficient instrument,] on the payment by the defendant of the said sum.

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That by an agreement dated the day of 18 , it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of rupees, upon the terms and conditions following (that is to say)—

(a) That the defendant should pay the plaintiff a deposit of rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the day of 18 , on which day the said purchase should be completed.

(b) That the plaintiff should deduce and make a good title to the said premises on or before the day of 18 , and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[Demand of judgment.]

THE FOURTH SCHEDULE—*continued.*

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the day of 18], and that the plaintiff should pay therefor rupees on delivery.
2. That on the [said] day the plaintiff was ready and willing, and offered to pay the defendant the said sum upon delivery of the said goods.
3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[Demand of judgment.]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, or in the capacity of foreman, or as the case may be], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services rupees [monthly].
2. That on the day of 18 , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.
3. That on the day of 18 , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[Demand of judgment.]

No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [As in last preceding Form.]
2. That on the day of 18 , at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.
3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[Demand of judgment.]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an [annual] compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year].
2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 18 , offered so to do].
3. That the defendant [entered upon] the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 18 , he refused to serve the plaintiff as aforesaid.

(Demand of judgment.)

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed.

[Or state the tenor of the contract.]

2. That the plaintiff duly performed all the conditions of the said agreement on his part.]

THE FOURTH SCHEDULE—continued.

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[Demand of judgment.]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed.

[Or state the tenor of the contract.]

2. That after the making of the said agreement the plaintiff received the said [apprentice] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 18 , the said [apprentice] wilfully absented himself from the service of the plaintiff, and continues so to do.

(Demand of judgment.)

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement with the plaintiff and his [father], E. F., under their hands and seals, a copy of which is hereto annexed.

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not instructed the plaintiff in the business of [or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment].

[Demand of judgment.]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff employed one E. F. as a clerk.

2. That on the day of 18 , at , the defendant agreed with the plaintiff, that if the said E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

[Or, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of rupees, conditioned that if the said E. F. should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void but not otherwise.]

[Or, 2. That at the same time and place, the defendant executed to the plaintiff a bond, a copy of which is hereto annexed.]

3. That between the day of 18 , and the day of 18 , the said E. F. received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[Demand of judgment.]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by an instrument in writing, let to the plaintiff [the house No. street], for the term of years, contracting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the day of during the said term, one E. F., who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of G. H. and I. J. by such removal].

[Demand of judgment.]

* The form given in Act XIX of 1850 requires the seal of the father or guardian.

THE FOURTH SCHEDULE—continued.

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him rupees therefor.

2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which could otherwise have accrued to him while the engine was under repair.

[Demand of judgment.]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant being partners in trade under the firm of *A. B. & C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership-property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. That the plaintiff duly performed all the conditions of the said agreement on his part.

3. That on the day of 18 , [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at , upon a debt due from the said firm to the said *E. F.*, and on the day of 18 ,] the plaintiff paid rupees [in satisfaction of the same].

4. That the defendant has not paid the same to the plaintiff.

[Demand of judgment.]

No. 70.

BY SHIPOWNER AGAINST FREIGHTOR FOR NOT LOADING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

[Or, 1. That on , at , the plaintiff and defendant agreed by charter-party that the defendant should deliver to the plaintiff's ship at on the day of 18 , five hundred tons of merchandise, which she should carry to , and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage, if required, at rupees per day.]

2. That at the time fixed by the said agreement the plaintiff was ready and willing, and offered, to receive [the said merchandise, or, the merchandise mentioned in the said agreement] from the defendant.

3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant entered upon certain land of the plaintiff, known as [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[Demand of judgment.]

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant entered a dwelling-house of the plaintiff called , and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[Demand of judgment.]

THE FOURTH SCHEDULE—*continued.*

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff [is, and] was, on and before the day of 18 , a merchant doing business in the city of .
2. That on the day of 18 , at , the defendant published in a newspaper, called the [or, in a letter addressed to *E. F.*, or otherwise how published], the following words concerning the plaintiff:—
[“*A. B.* of this city has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address.”]
3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].
4. That the said publication was false and malicious.

[Demand of judgment.]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously spoke, in the hearing of *E. F.* [or, sundry persons], the following words concerning the plaintiff: [“He is a thief”].
2. That, in consequence of the said words, the plaintiff lost his situation as in the employ of .

[Demand of judgment.]

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously said to one *E. F.* concerning the plaintiff: [“He is a young man of remarkably easy conscience.”]
2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.
3. That in consequence of the said words [the said *E. F.* refused to employ the plaintiff as a clerk].

[Demand of judgment.]

No. 93.

FOR MALICIOUS PROSECUTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant obtained a warrant of arrest from [a magistrate of the said city, or, as the case may be] on a charge of , and the plaintiff was arrested thereon, and imprisoned for or hours, and gave bail in the sum of rupees to obtain his release.
2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.
3. That on the day of 18 , the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.
4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; or, that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one *E. F.*, or, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[Demand of judgment.]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That *X. Y.* was the absolute owner [of the estate, or, the share of the estate, called , situate in the district of , the Government-revenue of which is rupees and the estimated value rupees, or, of the house No. , street in the town of Calcutta, the estimated value of which is rupee].

THE FOURTH SCHEDULE—*continued*.

2. That on the day of 18 , Z. illegally dispossessed the said X. Y. of the said estate [or share or house].
3. That the said X. Y. has since died intestate, leaving the plaintiff, the said A. B., his heir him surviving.
4. That the defendant withholds the possession of the estate [or share or house] from the plaintiff.
- The plaintiff prays judgment:—
- (1) for the possession of the said premises;
- (2) for rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows:—

1. On the day of , the plaintiff, by an instrument in writing, let to the defendant a house and premises [No. 52, Russell Street, in the] for a term of five years from the day of , at the monthly rent of 300 rupees.
2. By the said instrument the defendant covenanted to keep the said house and premises in good and tenantable repair.
3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.
4. On the day of 18 , a month's rent became due, and on the day of 18 , another month's rent became due; on the day of 18 , both had been in arrear for twenty-one days, and both are still due.
5. On the same day of 18 , the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims
- (1) possession of the said house and premises;
- (2) rupees for arrears of rent;
- (3) rupees compensation for the defendant's breach of his covenant to repair;
- (4) rupees for the occupation of the house and premises from the day of 18 , to the day of recovering possession.

No. 95.

BY THE TENANT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That one E. F. is the absolute owner of [a piece of land in the town of Calcutta], bounded as follows: , the estimated value of which is rupees .
2. That on the day of 18 , the said E. F. let the said premises to the plaintiff for years, from .
3. That the defendant withholds the possession thereof from the plaintiff.

[Demand of judgment.]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [or was possessed of] one hundred barrels of flour, the estimated value of which is rupees.
2. That on that day, at , the defendant took the same.
- The plaintiff prays judgment:—
- (1) for the possession of the said goods, or for rupees in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [or, state facts showing a right to the possession] the goods mentioned in the schedule hereto annexed [or describe the goods], the estimated value of which is rupees.
2. That from that day until the commencement of this suit, the defendant has detained the same from the plaintiff.
3. That before the commencement of this suit, to wit, on the day of 18 , the plaintiff demanded the same from the defendant, but he refused to deliver them.
- The plaintiff prays judgment:—
- (1) for the possession of the said goods, or for rupees, in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

The schedule.

THE FOURTH SCHEDULE—*continued.*

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant [*C. D.*], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth rupees over all his liabilities].
2. That the plaintiff was thereby induced to sell and deliver to the said *C. D.* [one hundred boxes of tea], the estimated value of which is rupees.
3. That the said representations were false, and were then known by the said *C. D.* to be so. [Or, That at the time of making the said representations, the said *C. D.* was insolvent, and knew himself to be so.]
4. That the said *C. D.* afterwards transferred the said goods to the defendant *E. F.* without consideration ; or who had notice of the falsity of the representation].

The plaintiff prays judgment :

- (1) for the possession of the said goods, or for rupees, in case such possession cannot be had ;
- (2) for rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained [ten bighás].
2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.
3. That on the day of 18 , the plaintiff paid the defendant rupees as part of such purchase-money.
4. That the said piece of ground contained in fact only [five bighás].

The plaintiff prays judgment :

- (1) for rupees, with interest from the day of 18 ;
- (2) that the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is the absolute owner of [describe the property].
2. That the defendant is in possession of the same under a lease from the plaintiff.
3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment, that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[*Pecuniary compensation might also be prayed.*]

No. 101.

FOR ABATEMENT OF A NUISANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. street, Calcutta].
2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].
3. That on the day of 18 , the defendant erected upon his said plot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].
4. That [the plaintiff] has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].

The plaintiff prays judgment, that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—*As in Form No. 81.*

The plaintiff prays judgment, that the defendant be restrained by injunction from diverting the water as aforesaid.

THE FOURTH SCHEDULE—*continued.*

No. 103.

FOR RESTORATION OF MOVEABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(Title.)

A. D., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather, which was executed by an eminent painter], and of which no duplicate exists [or, state any facts showing that the property is of a kind that cannot be replaced by money].

2. That on the day of 18 , he deposited the same for safe keeping with the defendant.

3. That on the day of 18 , he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the [painting];

The plaintiff prays judgment:

(1) that the defendant be restrained by injunction from disposing of, injuring or concealing the said [painting];

(2) that he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That before the date of the claims hereinafter mentioned, one *G. H.* deposited with the plaintiff [describe the property] for [safe keeping].

2. That the defendant, *C. D.*, claims the same [under an alleged assignment thereof to him from the said *G. H.*]

3. That the defendant, *E. F.*, also claims the same [under an order of the said *G. H.* transferring the same to him.]

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

(1) that the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;

(2) that they be required to interplead together concerning their claims to the said property;

[(3) that some person be authorized to receive the said property pending such litigation:]

(4) that upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. *E. F.*, late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [here insert nature of debt and security, if any].

2. The said *E. F.* made his will, dated the day of , and thereof appointed *C. D.* executor [or, devised his estate in trust, &c., or, died intestate, as the case may be].

3. The said will was proved by the said *C. D.* [or, Letters of administration were granted, &c.]

4. The defendant has possessed himself of the moveable [and immoveable, or, the proceeds of the immoveable] property of the said *E. F.*, and has not paid the plaintiff his said debt.

5. The said *E. F.* died on or about the day of .

6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said *E. F.*, deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEE.

(Title.)

[Alter Form No. 105 thus:—]

[Omit paragraph 1 and commence paragraph 2] *E. F.*, late of , duly made his last will, dated the day of , and thereof appointed *C. D.* executor, and by such will bequeathed to the plaintiff [here state the specific legacy.]

For paragraph 4 substitute—

The defendant is in possession of the moveable property of the said *E. F.*, and, amongst other things, of the said [here name the subject of the specific bequest.]

For the commencement of paragraph 6 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said [here name the subject of the specific bequest] or that, &c.

THE FOURTH SCHEDULE—continued.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEE.

(Title.)

[Alter Form No. 105 thus:—]

Omit paragraph 1 and substitute for paragraph 2] *E. F.*, late of _____, duly made his last will, dated the _____ day of _____, and thereof appointed *C. D.* executor, and by such will bequeathed to the plaintiff a legacy of _____ rupees.
In paragraph 4, substitute "legacy" for "debt."

Another Form.

Between *E. F.* ... Plaintiff,
and
G. H. ... Defendant.

E. F., the above-named plaintiff, states as follows:—

1. *A. B.* of *K* in the _____ duly made his last will, dated the [first day of March, 1873], whereby he appointed the defendant and *M. N.* [who died in the testator's life-time] executors thereof, and bequeathed his property, whether moveable or immovable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immovable property for the person who would be the testator's heir-at-law, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the [first day of July, 1878], and his will was proved by the defendant on the [fourth day of October, 1878]. The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immovable property; the defendant entered into the receipt of the rents of the immovable property and got in the moveable property; he has sold some part of the immovable property.

The plaintiff claims—

- (1) to have the moveable and immovable property of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts-taken;
- (2) such further or other relief as the nature of the case may require.

Between *E. F.* ... Plaintiff,
and
G. H. ... Defendant.

Written Statement of Defendant.

1. *A. B.*'s will contained a charge of debts; he died insolvent; he was entitled at his death to some immovable property which the defendant sold, and which produced the nett sum of rupees _____, and the testator had some moveable property which the defendant got in, and which produced the nett sum of _____ rupees.

2. The defendant applied the whole of the said sums and the sum of rupees _____ which the defendant received from rents of the immovable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the [tenth day of January, 1875], and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.

4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

IN THE COURT OF

, AT

Civil Suit, No. _____.

A. B. of _____
against

C. D. of _____
of the beneficiaries]

... Plaintiff,
the beneficiary [or, one
... Defendant.

A. B., the above-named plaintiff, states as follows:—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the _____ day of _____ made upon the marriage of *E. F.* and *G. H.*, the father and mother of the defendant [or, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*]

2. The said *A. B.* has taken upon himself the burden of the said trust, and is in possession of [or, of the proceeds of] the moveable and immovable property conveyed [or assigned] by the before-mentioned deed.

3. The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.

4. The plaintiff is desirous to account for all the rents and profits of the said immovable property [and the proceeds of the sale of the said, or of part of the said, immovable property, or moveable, or the proceeds of the sale of, or of part of, the said moveable, property, or the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust-estate may be administered in the Court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the Court may direct, or that the said *C. D.* may show good cause to the contrary.

[*N. B.*—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, on the plaint by a legatee.]

No. 109.

FORECLOSURE OR SALE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. By a mortgage-deed dated the _____ day of _____ 18____, a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed by the defendant to him

THE FOURTH SCHEDULE—continued.

the plaintiff, his heirs [or executors, administrators,] and assigns, for securing the principal sum of Rs. together with interest thereon at the rate of Rs. per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of Rs. for principal and interest on the said mortgage.

3. The plaintiff prays (a) that the Court will order the defendant to pay him the said sum of Rs. with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the right to redeem the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (b) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (c) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (d) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

Title.

[Alter Form No. 109 thus:—]

Transpose parties and also the facts in paragraph 1.

For paragraph 2, substitute—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3, substitute—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey the same to him upon payment of the said sum of Rs. and interest, with such costs (if any), as the Court may order, upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

No. 111.

SPECIFIC PERFORMANCE. (No. 1).

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. By an agreement dated the day of and signed by the above-named defendant, C. D., he the said C. D. contracted to buy of [or sell to] him certain immoveable property therein described and referred to, for the sum of rupees.

2. He has applied to the said C. D. specifically to perform the said agreement on his part, but he has not done so.

3. The said A. B. has been and still is ready and willing specifically to perform the agreement on his part of which the said C. D. has had notice.

4. The plaintiff prays that the Court will order the said C. D. specifically to perform the said agreement and to do all acts necessary to put the said A. B. in full possession of the said property [or to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[N.B.—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled—such as that the plaintiff signed it by mistake, under duress, or by the fraud of the defendant—and alter the prayer according to the relief sought.]

No. 112.

SPECIFIC PERFORMANCE. (No. 2.)

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, the defendant was absolutely entitled to certain immoveable property described in the agreement hereto annexed.

2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. That on the day of 18, the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

4. That on the day of 18, the plaintiff again demanded such conveyance. [Or, That the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:

(1) that the defendant execute to the plaintiff a sufficient conveyance of the said property [following the terms of the agreement];

(2) for rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. He and the said C. D., the defendant, have been for the space of years [or months] last past carrying on business together at within the jurisdiction of this Court, under cer-

THE FOURTH SCHEDULE—continued.

tain articles of partnership in writing, signed by them respectively, [or, under a certain deed sealed and executed by them respectively, or, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [or deed, or agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership-trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid, out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [or deed, or agreement], or that, if the said assets shall prove insufficient, the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by _____ of _____, pleader
for the plaintiff, [or by _____].

[N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution: but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, section 58.]

The plaintiff's claim is	rs. for money lent [and interest].	Money lent.
The plaintiff's claim is	rs., whereof _____ rs. is for the price of goods sold, and	Several demands.
rs. for money lent, and	rs. for interest.	Rent.
The plaintiff's claim is	rs. for arrears of rent.	Salary, &c.
The plaintiff's claim is	rs. for arrears of salary as a clerk [or, as the case may be].	Interest.
The plaintiff's claim is	rs. for interest upon money lent.	General average.
The plaintiff's claim is	rs. for a general average contribution.	Freight, &c.
The plaintiff's claim is	rs. for freight and demurrage.	Banker's balance.
The plaintiff's claim is	rs. for money deposited with the defendant as a banker.	Fees, &c., as pleader.
The plaintiff's claim is	rs. for fees for work done [and _____ rs. money expended] as a	Commission.
pleader.	rs. for commission earned as [state character—as auctioneer, cotton-broker,	
The plaintiff's claim is	rs. for medical attendances.	Medical attendance.
&c].	rs. for a return of premiums paid upon policies of insurance.	Return of premium.
The plaintiff's claim is	rs. for the warehousing of goods.	Warehouse-rent.
The plaintiff's claim is	rs. for the carriage of goods by railway.	Carriage of goods.
The plaintiff's claim is	rs. for the use and occupation of a house.	Use and occupation of house.
The plaintiff's claim is	rs. for the hire of [furniture].	Hire of goods.
The plaintiff's claim is	rs. for work done as a [surveyor].	Work done.
The plaintiff's claim is	rs. for board and lodging.	Board and lodging.
The plaintiff's claim is	rs. for the [board, lodging and] tuition of X. Y.	Schooling.
The plaintiff's claim is	rs. for money received by the defendant as pleader [or factor, or collector, or	Money received.
&c.] of the plaintiff.	rs. for fees received by the defendant under colour of the office of	Fees of office.
The plaintiff's claim is	rs. for a return of money overcharged for the carriage of goods by	Money overpaid.
The plaintiff's claim is	rs. for a return of fees overcharged by the defendant as	Return of money by stake-holder.
rs. for a return of money deposited with the defendant as stake-holder.	rs. for money entrusted to the defendant as stake-holder, and become pay-	Money won from stake-holder.
The plaintiff's claim is	rs. for a return of money entrusted to the defendant as agent of the	Money entrusted to agent.
able to plaintiff.	rs. for a return of money obtained from the plaintiff by fraud.	Money obtained by fraud.
The plaintiff's claim is	rs. for a return of money paid to the defendant by mistake.	Money paid by mistake.
The plaintiff's claim is	rs. for a return of money paid to the defendant for [work to be done, or, work	Money paid for consideration which has failed.
left undone; or, a bill to be taken up, or, a bill not taken up; or, &c.]	rs. for a return of money paid as a deposit upon shares to be allotted.	Money paid by surety for defendant.
The plaintiff's claim is	rs. for money paid for the defendant as his surety.	Rent paid.
The plaintiff's claim is	rs. for money paid for rent due by the defendant.	Money paid or accommodation-bill.
The plaintiff's claim is	rs. upon a bill of exchange accepted [or indorsed] for the defendant's accom-	Contribution by surety.
mediation.	rs. for a contribution in respect of money paid by the plaintiff as surety.	By co-debtor.
The plaintiff's claim is	rs. for a contribution in respect of a joint debt of the plaintiff and the de-	
endant, paid by the plaintiff.	rs. for money paid for calls upon shares, against which the defendant was	Money paid for calls.
The plaintiff's claim is		
bound to indemnify the plaintiff.		

THE FOURTH SCHEDULE—continued.

Money payable under award.	The plaintiff's claim is	rs. for money payable under an award.
Life-policy.	The plaintiff's claim is	rs. upon a policy of insurance upon the life of X. Y., deceased.
Money-bond.	The plaintiff's claim is	rs. upon a bond to secure payment of rs. and interest.
Foreign judgment.	The plaintiff's claim is	rs. upon a judgment of the Court in [the Empire of Russia].
Bills of exchange, &c.	The plaintiff's claim is	rs. upon a cheque drawn by the defendant.
	The plaintiff's claim is	rs. upon a bill of exchange accepted [or drawn, or indorsed] by the defendant.
	The plaintiff's claim is	rs. upon a promissory note made [or indorsed] by the defendant.
	The plaintiff's claim is as drawer [or indorser] of a bill of exchange.	rs. against the defendant, A. B., as acceptor, and against the defendant, C. D.,
Surety.	The plaintiff's claim is	rs. against the defendant as surety for the price of goods sold.
	The plaintiff's claim is	rs. against the defendant, A. B., as principal, and against the defendant, C. D., as surety, for the price of goods sold [or for arrears of rent, or for money lent, or for money received by the defendant, A. B., as traveller for the plaintiff, or, &c.]
Calls.	The plaintiff's claim is	rs. for calls upon shares.

Indorsement for Costs, &c.

[Add to the above forms] and rs. for costs; and if the amount claimed be paid to the plaintiff or his pleader within days [or if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order] from the service hereof, further proceedings will be stayed.

Damages and other Claims.

Agent, &c.	The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.	
	The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].	
	The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.	
	The plaintiff's claim is for damages for breach of duty as factor [or, &c.] of the plaintiff [and rs. for money received as factor, or, &c.]	
Apprentices.	The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X. Y. to the defendant [or plaintiff].	
Arbitration.	The plaintiff's claim is for damages for non-compliance with the award of X. Y.	
Assault, &c.	The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].	
By husband and wife.	The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, C. D.	
Against husband and wife.	The plaintiff's claim is for damages for assault by the defendant, C. D.	
Pleader.	The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.	
Bailment.	The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].	
Pledge.	The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].	
Hire.	The plaintiff's claim is for damages for negligence in the custody of furniture [or, a carriage] lent on hire, [and for wrongfully, &c.].	
Banker.	The plaintiff's claim is for damages for wrongfully neglecting [or refusing] to pay the plaintiff's cheque	
Bill.	The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.	
Bond.	The plaintiff's claim is upon a bond conditioned not to carry on the trade of a	
Carrier.	The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.	
	The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.	
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.	
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.	
Charter-party.	The plaintiff's claim is for damages for breach of charter-party of ship [Mary].	
Claim for return of goods; damages.	The plaintiff's claim is for return of household furniture, [or, &c.] or their value, and for damages for detaining the same.	
Damages for depriving of goods.	The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.	
Defamation.	The plaintiff's claim is for damages for libel.	
	The plaintiff's claim is for damages for slander.	
Wrongful distress.	The plaintiff's claim is for damages for improperly distraining.	
	[This Form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular.]	
Ejectment.	The plaintiff's claim is to recover possession of a house, No. in the Street, or of a farm called Blackacre, situate in the of in the of	
To establish title and recover rents.	The plaintiff's claim is to establish his title to [here describe property] and to recover the rents thereof.	
	[The two previous Forms may be combined.]	
Fishery.	The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.	
Fraud.	The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [or a business, or shares, or, &c.].	
	The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of A. B.	
Guarantee.	The plaintiff's claim is for damages for breach of a contract of guarantee for A. B.	
	The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.	
Insurance.	The plaintiff's claim is for a loss under a policy upon the ship [Royal Charter], and freight of cargo [or for return of premiums].	
	[This Form shall be sufficient whether the loss claimed be total or partial.]	
Fire-insurance.	The plaintiff's claim is for a loss under a policy of fire-insurance upon house and furniture.	
	The plaintiff's claim is for damages for breach of a contract to insure a house.	
Landlord and tenant.	The plaintiff's claim is for damages for breach of a contract to keep a house in repair.	

THE FOURTH SCHEDULE—continued.

The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.	Landlord and tenant.
The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.	Medical man.
The plaintiff's claim is for damages for injury by the defendant's dog.	Mischievous animal.
The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.	Negligence.
The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants.	
The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.	
The plaintiff's claim is as executor of <i>A. B.</i> , deceased, for damages for the death of the said <i>A. B.</i> , from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.	Act XIII of 1855.
The plaintiff's claim is for damages for breach of promise of marriage.	Promise of marriage.
The plaintiff's claim is for damages for breach of contract to accept and pay for goods.	Sale of goods.
The plaintiff's claim is for damages for non-delivery [or short delivery, or defective quality, or other breach of contract of sale] of cotton [or, &c.].	
The plaintiff's claim is for damages for breach of warranty of a horse.	
The plaintiff's claim is for damages for breach of a contract to sell [or purchase] land.	Sale of land.
The plaintiff's claim is for damages for breach of a contract to let [or take] a house.	
The plaintiff's claim is for damages for breach of a contract to sell [or purchase] the lease, with good-will, fixtures, and stock-in-trade of a public-house.	
The plaintiff's claim is for damages for breach of covenant for title [or for quiet enjoyment, or, &c.] in a conveyance of land.	
The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [or cutting his grass, or felling his timber, or pulling down his fences, or removing his gate, or using his road or path, or crossing his field, or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river].	Trespass on land.
The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [or house, or mine].	Support.
The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, or private way].	Way.
The plaintiff's claim is for damages for wrongfully diverting [or obstructing, or polluting, or diverting water from] a water-course.	Water-course, &c.
The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [or into the plaintiff's mine].	
The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.	
The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.	Pasture.
[This Form shall be sufficient whatever the nature of the right to pasture be.]	
The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.	Light.
The plaintiff's claim is for damages for the infringement of the plaintiff's patent.	Patent.
The plaintiff's claim is for damages for the infringement of the plaintiff's copyright.	Copyright.
The plaintiff's claim is for damages for wrongfully using [or imitating] the plaintiff's trademark.	Trademark.
The plaintiff's claim is for damages for breach of a contract to build a ship [or to repair a house, &c.].	Work.
The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, &c.	
The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [or, &c.].	Nuisance.
The plaintiff's claim is for damages from nuisance by noise from the defendant's works [or stables, or, &c.].	
[Add to indorsement]:—and for an injunction	Injunction.
[Add to indorsement where claim is to land, or to establish title, or both]:—	
and for mesne profits.	Mesne profits.
and for an account of rents or arrears of rent.	Arrears of rent.
and for breach of covenant for [repairs].	Breach of covenant.

1. Creditor to administer Estate.

The plaintiff's claim is as a creditor of *X. Y.*, of _____, deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the administrator of the said *X. Y.* [and the defendants, *E. F.* and *G. H.*, as his co-heirs at law].

2. Legatee to administer Estate.

The plaintiff's claim is as a legatee under the will dated the _____ day of _____, 18____, of *X. Y.*, deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the executor of the said *X. Y.* [and the defendants *E. F.* and *G. H.*, as his devisees].

3. Partnership.

The plaintiff's claim is to have an account taken of the partnership-dealings between the plaintiff and defendant [under articles of partnership dated the _____ day of _____], and to have the affairs of the partnership wound up.

4. By Mortgagee.

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the _____ day of _____, made between [parties] [or, by deposit of title-deeds], and that the mortgage may be enforced by foreclosure or sale.

5. By Mortgagee.

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated _____ and made between [parties], and to redeem the property comprised therein.

6. Raising Portions.

The plaintiff's claim is that the sum of _____ rs. which by a deed of settlement, dated _____, was provided for the portions of the younger children of _____ may be raised.

7. Execution of Trusts.

The plaintiff's claim is to have the trusts of an indenture dated _____ and made between [parties] carried into execution.

THE FOURTH SCHEDULE—continued.

8. *Cancellation or Rectification.*

The plaintiff's claim is to have a deed dated _____ and made between [parties] set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the _____ day of _____ for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at _____.

No. 115.

PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will dated the _____ day of _____ of C. D., late of _____, deceased, who died on the _____ day of _____, and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [or, as the case may be].

2. *By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased, seeking to obtain the revocation of a probate granted in common form.*

The plaintiff claims to be executor of the last will dated the _____ day of _____ of C. D., late of _____, deceased, who died on the _____ day of _____ and to have the probate of a pretended will of the said deceased, dated the _____ day of _____ revoked. This summons is issued against you as the executor of the said pretended will [or, as the case may be].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of C. D., late of _____, deceased, who died on the _____ day of _____, dated the _____ day of _____.

The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.*

The plaintiff claims to be the brother and sole next-of-kin of C. D., of _____, deceased, who died on the _____ day of _____, intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [or, as the case may be].

THE FOURTH SCHEDULE—*continued.*

No. 117.

SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

To

dwelling at

NOTICE—1. Should you apprehend your witnesses will not attend of their own accord, you can have summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

WHEREAS

has instituted a suit against you for you are hereby summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions on the

day of 18, at o'clock in the forenoon, to answer the above-named plaintiff; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your pleader

, which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18.

L. S.

Judge.

NOTE. If written statements are required, say—You are [or such a party is, as the case may be] required to put in a written statement by the day of

No. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

To

dwelling at

NOTICE—1. Should you apprehend your witnesses will not attend of their own accord, you can have summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

WHEREAS

has instituted a suit against you for you are hereby summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the

day of 18, at o'clock in the forenoon, to answer the above-named plaintiff; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the issues will be settled in your absence; and you will bring with you, or send by your pleader

, which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18.

L. S.

Judge.

NOTE. If written statements are required, say—You are [or such a party is, as the case may be] required to put in a written statement by the day of

No. 119.

SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure.

No. of Suit.

AT

IN THE COURT OF

To

Plaintiff.
Defendant.

(Name, description and address.)

WHEREAS [here enter the name, description and address of the plaintiff] has instituted a suit in this Court against you [here state the particulars of the claim as in the register]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [If not specially required to appear in person, state—"in person or by a pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able

THE FOURTH SCHEDULE—continued.

to answer all such questions") to answer the above-named plaintiff. [If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"] and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff], which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18 .

L. S.

Judge.

No. 120.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit. No.

of 18 .

A. B. of

against

C. D. of

The

day of

18 .

WHEREAS it is stated in the plaint that , the defendant in the above suit is at present residing in , but that the right to sue accrued within the jurisdiction of this Court: it is ordered that a summons returnable on the day of 18 be forwarded for service on the said defendant, to the Court of with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

TO ACCOMPANY RETURN OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit. No.

of 18 .

The

day of

18 .

A. B. of

against

C. D. of

Read proceeding from the

for service on

forwarding

in

civil

No.

of that Court.

Read bailiff's endorsement on the back of the process stating that the proof of the above having been duly taken by me on the [oath or] affirmation of and it is ordered that the be returned to the with a copy of this proceeding.

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 122.

DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure.

(Title.)

I, the undersigned defendant [or one of the defendants], disclaim all interest under the will of the said E. F. in the plaint, named [or, as heir-at-law, or, as next-of-kin, or one of the next-of-kin, of E. F., deceased, in the said plaint named].

Or, I, the undersigned defendant, state that I admit [or deny] [here repeat in the language of the plaint the statements admitted or denied].

Or, I, the undersigned defendant, submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [or, that it appears upon the said plaint that I am jointly liable with one E. F., who is not a party to the suit, and not severally liable as by the plaint appears, or, that it appears by the said plaint that G. H. should have been a joint-plaintiff with the said A. B. in the said suit, or, as the case may be].

THE FOURTH SCHEDULE—*continued.*

Or, that the plaintiff has conveyed his interest in the said mortgage [*or* right to redeem] to one *I. J.* [*or*, that I have conveyed or assigned to *H. L.* by way of further charge for securing the sum of Rs. . . . the right to redeem in the property sought by the suit to be foreclosed].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership-trading [*or*, as the case may be].

(Signed) *C. D.*,
Defendant.

No. 123.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit, No. of 18
A. B.
against
C. D., E. F. and G. H.

Interrogatories on behalf of the above-named *A. B.* [*or C. D.*] for the examination of the above-named [*E. F. and G. H., or A. B.*]

1. Did not, &c.

2. Has not, &c.

The defendant *E. F.* is required to answer the interrogatories numbered .

The defendant *G. H.* is required to answer the interrogatories numbered .

No. 124.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit, No. of 18
A. B.
against
C. D.

Take notice that the plaintiff [*or* defendant] requires you to produce for his inspection the following documents referred to in your plaint [*or* written statement, *or* affidavit], dated the day of 18 .

Describe documents required.

X. Y., Pleader for the plaintiff [*or* the defendant].

To *Z.*,

Pleader for the defendant [*or* plaintiff].

No. 125.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

(Title.)

To

WHEREAS your attendance is required to on behalf of the in the above cause, you are hereby required [personally to appear before this Court] on the day of 18 , at the hour of A.M. [and] to bring with you or to send to this Court

A sum of Rs. , being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you do not comply with this order, you will be subject to the consequence of non-attendance laid down in the Code of Civil Procedure, section 170.

Notice—(1). If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2). If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to you for each day's attendance beyond the day specified.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 126.

Another Form.

No. of Suit.

IN THE COURT OF AT
Plaintiff.
Defendant.

To

[Name, description and address.]

You are hereby summoned to appear in this Court in person on the day of at in the forenoon, to give evidence on behalf of the plaintiff [*or* the defendant] in the

THE FOURTH SCHEDULE—continued.

above-mentioned suit, and to produce [*here describe with convenient certainty any document the production of which may be required. If the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly*], and you are not to depart thence until you have been examined [*or have produced the document*] and the Court has risen, or unless you have obtained the leave of the Court.

FORMS OF DECREES.

No. 127.

SIMPLE MONEY-DECREE.

(Title.)

Claim for
THIS cause coming on
presence of
defendant, it is ordered that the
sum of Rs.
from
for final disposal before
the plaintiff, and
do pay to
the
per cent. per
to the date of realization of the said sum, and do also pay to the
the costs of this suit as taxed by the officer of the Court, with interest thereon at the rate
aforesaid from the date of taxation to the date of realization.

Costs of suit.

PLAINTIFF.			DEFENDANT.		
	Rs.	A. P.		Rs.	A. P.
1. Stamp for plaint			Stamp for power		
2. Do. for power			Do. petition		
3. Do. exhibits			Pleader's fee		
4. Pleader's fees on Rs.			Subsistence for witnesses		
5. Translation-fee			Service of process		
6. Subsistence for witness for attendance			Translation-fee		
7. Commissioner's fee			Commissioner's fee		
8. Service of process					
9. &c.					
TOTAL			TOTAL		

GIVEN under my hand and the seal of the Court, this

day of

18

L. S.

Judge.

No. 128.

DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(Title.)

It is ordered that it be referred to the Registrar [*or Taxing Officer*] to take an account of what is due to the plaintiff for principal and interest on the mortgage [*or lien*] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the Registrar [*or Taxing Officer*] do declare in court on the day of what he shall find to be due for principal and interest as aforesaid, and for costs; And upon the defendant paying into court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months from the date of declaring in court the amount so due; it is ordered that the plaintiff do reconvey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under, him, and do deliver up to the defendant or to such person as he appoints all documents in his custody or power relating thereto, and that upon such reconveyance being made, and documents being delivered up, the Registrar [*or Taxing Officer*] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest and costs; but in default of the defendant paying into court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or the premises subject to the said lien*] be sold with the approbation of the Registrar [*or Taxing Officer*]. And it is ordered that the proceeds of such sale (after defraying thereout the expenses of the sale) be paid into court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant or other person entitled to receive the same.

No. 129.

FINAL DECREE FOR FORECLOSURE.

(Title.)

WHEREAS it appears to the Court that the defendant has not paid into court the sum which was on the day of last declared in court to be due to the plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in

THE FOURTH SCHEDULE—continued.

this suit on the _____ day of _____ last, and that the period of six months has elapsed since the said _____ day of _____
 It is ordered that the defendant do stand absolutely debarred of all right to redeem the said mortgaged premises.

No. 130.

PRELIMINARY ORDER—ADMINISTRATION-SUIT.

Section 213 of the Code of Civil Procedure.

(Title.)

It is ordered that the following accounts and inquiries be taken and made; that is to say:—

In creditor's suit—

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next-of-kin [or one of the next-of-kin] of the intestate.

[After the first paragraph, the Order will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered, that the defendant do, on or before the _____ day of _____ next, pay into court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the Registrar shall find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into court.

8. And that Mr. E. F. be Receiver in the suit [or proceeding], and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar [and shall give security by bond for the due performance of his duties to the amount of _____ rupees].

9. And it is further ordered, that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say,—

(a) an inquiry what immoveable property the deceased was seized of or entitled to at the time of his death;

(b) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased, or any part thereof;

(c) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immoveable property of the deceased, or so much thereof as shall be necessary to make up the fund in court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered, that G. H. shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered, that for the purpose of the inquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the _____ day of _____ and that the Registrar do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the _____ day of _____

14. And, lastly, it is ordered, that this suit [or matter] stand adjourned for making final decree to the _____ day of _____

[Such part only of this order is to be used as is applicable to the particular case.]

No. 131.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE.

Section 213 of the Code of Civil Procedure.

1. It is ordered that the defendant _____ do on or before the _____ day of _____ pay into court the sum of Rs. _____, the balance by the said certificate found to be due from the said defendant on account of the estate of _____ the testator, and also the sum of Rs. _____ for interest, at the rate of _____ Rs. _____ per centum per annum, from the _____ day of _____ to the _____ day of _____ amounting together to the sum of Rs. _____

2. Let the Registrar [or Taxing officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rs. _____ ordered to be paid into court as aforesaid, as follows:—

(a).—The costs of the plaintiff to Mr. _____, his attorney [or pleader], and the costs of the defendant to Mr. _____, his attorney [or pleader].

THE FOURTH SCHEDULE—continued.

- (b)—And (if any debts are due) with the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid, and after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them
- 3 And if there should then be any residue, let the same be paid to the residuary legatees.

DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES
Section 213 of the Code of Civil Procedure.

- 1 Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff,
- 2 And it is ordered, that an account be taken of what is due for principal and interest on the said legacy,
- 3 And it is also ordered, that the defendant do within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest,
- 4 And it is ordered, that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ

FINAL DECREE IN AN ADMINISTRATION-SUIT BY NEXT-OF-KIN
Section 213 of the Code of Civil Procedure

- 1 Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of *E F*, the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs when taxed
- 2 And it is ordered that the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, be paid and applied by defendant as follows —
- (a) —Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one third share of the said residue to the plaintiff *A B*, and *C*, his wife, in her right, as the sister and one of the next of kin of the said *F F* the intestate
- (b) —Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next of kin of the said *F F*, the intestate
- (c) —And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the remaining one third share of the said residue to *G H*, as the brother and the other next of kin of the said *J F*, the intestate

No 132

ORDER—DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure

(Title)

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the *Gazette, &c*

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book debts and claims of the partnership.

And it is ordered that the following accounts be taken —

- 1 An account of the credits, property and effects now belonging to the said partnership,
- 2 An account of the debts and liabilities of the said partnership,
- 3 An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts
- And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken and all the other acts required to be done be completed before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of

No. 133

PARTNERSHIP—FINAL DECREE.

Section 215 of the Code of Civil Procedure

IN THE COURT OF

AT

Civil Suit, No

A B of
against
C D of

It is ordered that the fund now in court, amounting to the sum of Rs be applied as follows —

- 1 In payment of the debts due by the partnership set forth in the Registrar's certificate, amounting in the whole to Rs.

THE FOURTH SCHEDULE—continued.

2. In payment of the costs of all parties in this suit, amounting to Rs. [These costs must be ascertained before the decree is drawn up].

3. In payment of the sum of Rs. to the plaintiff as his share of the partnership-assets, of the sum of Rs. , being the residue of the said sum of Rs. now in court, to the defendant as his share of the partnership-assets.

[Or, And that the remainder of the said sum of Rs. be paid to the said plaintiff [or defendant] in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts.]

And that the defendant [or plaintiff] do on or before the day of being the balance of the said sum of Rs. pay to the plaintiff [or defendant] the sum of Rs. due to him, which will then remain due.

No. 134.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

Section 224 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18 .

A. B. of

against

C. D. of

CERTIFIED that no [or partial, as the case may be, and if partial, state to what extent] satisfaction of the decree of this Court, in Civil Suit No. of 18 , a copy of which is hereunto attached, has been obtained by execution within the jurisdiction of this Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 135.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No

Miscellaneous, No.

AT

of 18 .

of 18 .

A. B. of

against

C. D. of

To

WHEREAS has made application to this Court for execution of decree in Civil Suit No. 18 , this is to give you notice that you are to appear before this Court on the day of 18 , either in person, or by a pleader of this Court, or agent duly authorized and instructed, to show cause, if any, why execution should not be granted.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 136.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANT'S POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

Section 254 of the Code of Civil Procedure.

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS day of 18 , in Suit No.

was ordered, by decree of this Court, passed on the of 18 , to pay to the plaintiff the sum of Rs. as noted in the margin; and whereas the said sum of Rs. has not been paid

THAT I AM TO COMMAND YOU to attach the moveable property of the said as set forth in the list hereunto annexed, or which shall be pointed out to you by the said , and unless the said shall pay to you the said sum of Rs. together with Rs. , the costs of this attachment, to hold the same until further orders from this Court.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of

DECREE.			
Principal	.	.	.
Interest	.	.	.
Costs	.	.	.
Costs of decree	.	.	.
Interest thereon	.	.	.
Total of attachment	.	.	.
TOTAL	.	.	.

THE FOURTH SCHEDULE—continued.

18 , with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .
Schedule.

L. S.

Judge.

No. 137.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &c.

Section 263 of the Code of Civil Procedure.

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS in the occupancy of the plaintiff in this suit: you are hereby directed to put the said in possession of the same, and you are hereby authorized to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure.

(Title.)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 in favour of for Rs. : it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from receiving from the following property in the possession of the said that is to say, to which the defendant is entitled, subject to any claim of the said , and the said is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT SECURED BY NEGOTIABLE INSTRUMENTS.

Section 268 of the Code of Civil Procedure.

(Title.)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 , in Civil Suit, No. of 18 in favour of for Rs. : it is ordered that the defendant be, and hereby, prohibited and restrained, until the further order of this Court, from receiving from you a certain debt alleged now to be due from you to the said defendant, namely,

and that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from making payment of the said debt, or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 140.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.
Section 268 of the Code of Civil Procedure.

(Title.)

To

Defendant, and to
Company., Manager of
has failed

WHEREAS
to satisfy a decree passed against
on the day of 18 , in Civil Suit, No. of 18
in favour of for Rs.
it is ordered that you, the defendant, be, and you are hereby, prohibited and restrained, until the further order
of this Court, from making any transfer of shares in
the aforesaid Company, namely,
or from receiving payment of any dividends thereof; and you
the Manager of the said Company, are hereby prohibited and restrained from permitting any such
transfer or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 141.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 274 of the Code of Civil Procedure.

(Title.)

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the
day of 18 , in Civil Suit, No. of 18 , in favour of
for Rs. it is ordered that
you, the said , be, and you are hereby, prohibited and restrained,
until the further order of this Court, from alienating the property specified in the schedule hereunto annexed,
by sale, gift, or otherwise, and that all persons be, and that they are hereby, prohibited from receiving the
same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .
Schedule.

L. S.

Judge.

No. 142.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF
A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

Sections 272 and 486 of the Code of Civil Procedure.

IN THE COURT OF

AT
Civil Suit, No. of 18 .
A. B. of
against
C. D. of

To

SIR,

THE plaintiff having applied, under section of the Code of Civil Procedure, for an attachment
of certain money now in your hands (here state how the money is supposed to be in the hands of the person
addressed, on what account, &c.), I request that you will hold the said money subject to the further order of
this Court.

I have the honour to be,

SIR,

Your most obedient Servant,

L. S.

Judge.

Dated the day of 18 .

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THE FOURTH SCHEDULE—continued.

No. 143.

ORDER FOR PAYMENT TO THE PLAINTIFF, &c., OF MONEY, &c., IN THE HANDS OF A THIRD PARTY.
Section 177 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No. of 18
Miscellaneous, No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT AND TO
WHEREAS the following property has been attached in execution of a decree in Civil Suit, No. of 18, passed on the day of 18, in favour of for Rs. : it is ordered that the property so attached, consisting of Rs. in money, and Rs. in Currency notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you the said to and that the said property, so far as may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the said decree, shall be paid over to the said and the remainder if any, shall be paid to you, the said

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 144.

NOTICE TO ATTACHING CREDITOR.
Section 278 of the Code of Civil Procedure.

IN THE COURT OF

AT
Civil Suit, No. of 18
Miscellaneous, No. of 18
A. B. of
against
C. D. of

TO
WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of the decree in Civil Suit, No. of 18, this is to give you notice to appear before this Court on the day of 18, either in person or by a pleader of the Court duly instructed, to support your claim, as attaching creditor.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 145.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.
Section 287 of the Code of Civil Procedure.

IN THE COURT OF

AT
Civil Suit, No. of 18
Miscellaneous, No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

THESE ARE TO COMMAND YOU to sell by auction, after giving notice, by affixing the same in this court-house, and after making due proclamation,* the days' previous property attached under a warrant from this Court dated the day of 18, in execution of a decree in favour of in suit No. of 18, or so much of the said property as shall realize the sum of Rs. , being the of the said decree and costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this warrant on or before the day of 18, with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

* This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed, should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered, and as fairly and accurately as possible the other particulars required by section 287 to be specified.

THE FOURTH SCHEDULE—continued.

No. 146.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.
Section 300 of the Code of Civil Procedure.

IN THE COURT OF
Civil Suit, No. _____ AT _____ of 18
A. B. of
against
C. D. of

WHEREAS _____ has been the
purchaser at a sale by auction in execution of the decree in the above suit of
now in your possession, you are hereby prohibited from delivering possession of the said
to any person except the said

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____

L. S.

Judge

No. 147.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE
PURCHASER.

Section 301 of the Code of Civil Procedure.
IN THE COURT OF _____ AT _____ of 18
A. B. of
against
C. D. of

To

and to

WHEREAS _____ has become
the purchaser at a public sale in execution of the decree in the above suit of
certain _____ debt due from you to you
, that is to say _____ it is ordered that you be,
and you are hereby, prohibited from receiving, and you _____ from making payment of, the said debt
to any person or persons except the said

GIVEN under my hand and the seal of the Court, this _____ day of _____

L. S.

Judge.

No. 148.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF _____ AT _____ of 18
A. B. of
against
C. D. of

To _____ Manager of _____ Company.
and _____
WHEREAS _____ has become the purchaser at a public sale in execution of the decree,
in the above suit of certain shares in the above Company, that is to say, of _____
standing in the name of you _____
, it is ordered that you _____ be, and you are hereby,
prohibited from making any transfer of the said shares to any person except the said
the purchaser aforesaid, or from receiving any dividends thereon; and you _____
, Manager of the said Company, from permitting any such transfer or making any such
payment to any person except the said _____ the
purchaser aforesaid.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 149.

ORDER CONFIRMING SALE OF LAND, &c.
Section 315 of the Code of Civil Procedure.IN THE COURT OF
Civil Suit, No.AT
of 18A. B. of
against
C. D. of

WHEREAS the following land [or immovable property] was on the 18 sold by the Bailiff of this Court in execution of the decree in this suit; and whereas days have elapsed and no application has been made [or objection allowed] to the said sale, it is ordered that the said sale be confirmed, and the said sale is hereby, confirmed.

GIVEN under my hand and the seal of the Court, this day of 18

Schedule.

L. S.

Judge.

No. 150.

CERTIFICATE OF SALE OF LAND.
Section 316 of the Code of Civil Procedure.IN THE COURT OF
Civil Suit, No.AT
of 18
A. B. of
against
C. D. of

THIS is to certify that sale by public auction on the day of 18 has been declared the purchaser at

in execution of decree in this suit, and that the said sale has been duly confirmed by the Court.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 151.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.
Section 318 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT
of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has become the certified purchaser of at a sale in execution of the decree in Civil Suit No. of 18; and whereas such land is in the possession of you are hereby ordered to put the said, the certified purchaser, as aforesaid, into possession of the said and if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 152.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND.

Section 326 of the Code of Civil Procedure.

IN THE COURT OF
Civil Suit, No.AT
of 18
A. B. of
against
C. D. of

To

Collector of

Sir,

In answer to your communication No. sale in execution of the decree in this suit of

dated

, representing that the and, lying within your district,

THE FOURTH SCHEDULE—continued.

paying revenue to Government, is objectionable, I have the honour to inform you that you are authorized to make provision for the satisfaction of the said decree in the manner recommended by you instead of proceeding to a public sale of

I have the honour to be,
SIR,
Your obedient Servant,

L. S.

Judge.

No. 153.

ORDER FOR COMMITTAL FOR RESISTING, &c., EXECUTION OF DECREE FOR LAND.

Section 329 of the Code of Civil Procedure.

(Title.)

To

WHEREAS it appears to the Court that
has without just cause resisted [or obstructed] the execution of the decree of the Court passed against
on the day of 18, in Civil Suit, No. of 18
whereby certain land or immoveable property was adjudged to
that the said be committed to custody for a period of it is ordered
days.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 154.

WARRANT OF ARREST IN EXECUTION.

Section 337 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No. of 18
Miscellaneous, No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS

Principal	.	.	.	.
Interest	.	.	.	.
Costs	.	.	.	.
Execution	.	.	.	.
TOTAL	.	.	.	.

was adjudged by a decree of the Court, in
No. of 18, dated 18, to
pay to the plaintiff the sum of Rs. as noted in the
margin, and whereas the said sum of Rs. has
not been paid to the said plaintiff in satisfaction of the
said decree, these are to command you to arrest the said
defendant, and unless the said defendant shall pay to you
the said sum of Rs. together with Rs.
for the costs of executing this process, to bring the said
defendant before the Court with all convenient speed.
You are further commanded to return this warrant on or
before the day of 18, with an en-
dorsement certifying the day and manner in which it has

been executed, or the reason why it has not been executed
GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 155.

NOTICE OF PAYMENT INTO COURT.

Section 377 of the Code of Civil Procedure.

IN THE COURT OF
B. No.

A. B. v. C. D.

TAKE notice that the defendant has paid into Court Rs.
satisfy the plaintiff's claim [or the plaintiff's claim for, &c.]
To Mr. X. Z.,

the Plaintiff's Pleader,
Z.,
Defendant's Pleader.

, and says that that sum is enough to

THE FOURTH SCHEDULE—continued.

No. 156.

COMMISSION TO EXAMINE ABSENT WITNESSES.
 Section 312 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

of 18
 A. B. of
 against
 C. D. of

To

WHEREAS the evidence of
 in the above suit; and whereas
 gatories [or vivâ voce] of such witnesses
 that purpose, and you are further requested to make return of this Court on your application].*

is requested by the
 you are hereby appointed a Commissioner for
 and such examination so soon as it may be taken
 [process to require the attendance of the witness will be issued by the day of

GIVEN under my hand and the seal of the Court, this

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.
 Sections 392 and 394 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

of 18
 A. B. of
 against
 C. D. of

To

WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for
 should be issued; you are hereby appointed
 Commissioner for the purpose of
 the attendance before you of any witnesses, or for the production of any documents which you may desire to
 examine or inspect, will be issued by this Court on your application.]*
 A sum of Rs. , being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of

18

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 158.

WARRANT OF ARREST BEFORE JUDGMENT.
 Section 478 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT of 18

A. B. of
 against
 C. D. of

To THE BAILIFF OF THE COURT.

WHEREAS
 has proved to the satisfaction of the Court that there is probable cause for believing that the defendant
 is about to
 the said
 before the Court, in order that he may show cause why he should not furnish security to the
 amount of rupees for personal appearance before the Court, until such time as the said
 suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed
 against in the suit.

GIVEN under my hand and the seal of the Court, this day of

18

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 159.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

A. B. of
against
C. D. of

To
WHEREAS
cation to the Court that security be taken for the appearance of the defendant
against
defendant
security, which
against
GIVEN under my hand and the seal of the Court, this

, plaintiff in this suit, has made appli-
to answer any judgment that may be passed
in the suit; and whereas the Court has called upon the
to furnish such security, or to offer a sufficient deposit in lieu of
has failed to do; it is ordered that the said defendant
be committed to custody until the decision of the suit: or if judgment be given
until the execution of the decree.

day of 18

L. S.

Judge.

No. 160.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE.

Section 484 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

A. B. of
against
C. D. of

To THE BAILIFF OF THE COURT.

WHEREAS
of the Court that the defendant in the above suit
you to call upon the said defendant
day of
to produce and place at the disposal of this Court when required
either to furnish security for the sum of
or the value thereof, or such portion of the value as may
be sufficient to fulfil any decree that may be passed against
show cause why
said
and keep the same under safe and secure custody until the further order of the Court, and in
what manner you shall have executed this warrant make appear to the Court immediately after the execution
hereof, and have you here then this warrant.

has proved to the satisfaction
these are to command
on or before the
either to furnish security for the sum of
or the value thereof, or such portion of the value as may
be sufficient to fulfil any decree that may be passed against
show cause why
said
and keep the same under safe and secure custody until the further order of the Court, and in
what manner you shall have executed this warrant make appear to the Court immediately after the execution
hereof, and have you here then this warrant.

day of 18

L. S.

Judge.

No. 161.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

A. B. of
against
C. D. of

To THE BAILIFF OF THE COURT.

WHEREAS
the plaintiff in this suit, has applied to the Court to call upon
the defendant, to furnish security to fulfil any decree that may be passed against
in
the suit, and whereas the Court has called upon the said
to furnish such security which
has failed to do
; these are to command you to attach
and keep the same under safe and secure
custody until the further order of the Court, and in what manner you shall have executed this warrant make
appear to this Court immediately after the execution hereof, and have you here then this warrant.

GIVEN under my hand and the seal of the Court, this

day of 18

L. S.

Judge.

seizure, apply to any Judge of the said Court to discharge or suspend the warrant, or to release a distrained article, and such Judge may discharge or suspend such warrant or release such article accordingly, upon such terms as he thinks just,

and any of the Judges of the said Court may in his discretion give reasonable time to the debtor to pay the rent due from him.

Upon any such application, the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Judge, and shall be paid as he directs.

61. If any claim is made to, or in respect of, any property seized under this chapter, or in respect of the proceeds or value thereof, by any person not being the debtor, the Registrar of the Small Cause Court, upon the application of the bailiff who seized the property, may issue a summons calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court in respect of such claim shall be stayed, and any Judge of the High Court, on proof of the issue of such summons and that the property was so distrained, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

And a Judge of the Small Cause Court shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as he thinks fit;

and such order shall be enforced as if it were an order made in a suit brought in such Court.

The procedure in Small Cause Courts in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Courts.

62. In any case under section sixty or section sixty-one the Judge by whom the case is heard may award such compensation by way of damages to the applicant or claimant (as the case may be) as the Judge thinks fit,

and may for that purpose make any enquiry he thinks necessary;

and the order of the Judge awarding or refusing such compensation shall bar any suit for the recovery of compensation for any damage caused by the distress.

63. In any case under section sixty or section sixty-one, if the value of the subject-matter in dispute exceeds one thousand rupees, the applicant or claimant may apply to the High Court to transfer the case to itself, and the High Court, on being satisfied that it is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or set aside any order

passed in the case by a Judge of the Small Cause Court, and may make such order therein as the High Court thinks fit.

Every application under this section shall be made within seven days from the date of the seizure of the subject-matter in dispute.

In granting applications under this section, the High Court may impose such terms as to payment of, or giving security for, costs or otherwise as it thinks fit.

The procedure in cases transferred under this section shall conform, as far as may be, to the procedure in suits before the High Court in the exercise of its ordinary original civil jurisdiction; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction; and every such order awarding or refusing compensation shall bar any suit for the recovery of compensation for any damage caused by the distress which gave rise to the case wherein such order was made.

64. In default of any order to the contrary by a Judge of the Small Cause Court or by the High Court, any two of the said bailiffs may, at the expiration of five days from a seizure of property under this chapter, appraise the property so seized, and give the debtor notice in writing to the effect of the form (marked D) in the third schedule hereto annexed.

The bailiffs shall file in the Small Cause Court a copy of every notice given under this section.

65. In default of any such order to the contrary, the distrained property shall be sold on the day mentioned in such notice, and the said bailiffs shall on realizing the proceeds pay over the amount thereof to the Registrar of the Small Cause Court; and such amount shall be applied first in payment of the costs of the said distress and then in satisfaction of the debt; and the surplus, if any, shall be returned to the debtor:

Provided that the debtor may direct that the sale shall take place in any other manner, first giving security for any extra costs thereby occasioned.

66. No costs of any distress under this chapter shall be taken or demanded except those mentioned in the part (marked E) of the third schedule hereto annexed.

The Judges of the Small Cause Court may apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said bailiffs, as appears to the said Judges expedient.

67. The Registrar of the Small Cause Court shall keep a book in which all sums received as costs upon distresses made under this chapter, and all sums paid as remuneration to the said bailiffs, and all contingent charges incurred in respect of such distresses, shall be duly entered.

He shall also enter in the said book all sums realized by sale of the property distrained and paid over to landlords under the provisions of this chapter.

68. No distress shall be levied for arrears of rent, except under the provisions of this chapter ;

And any person, except a bailiff appointed under section fifty-one, levying or attempting to levy any such distress shall, on conviction before a Presidency Magistrate, be liable to be punished with fine which may extend to five hundred rupees and with imprisonment for a term which may extend to three months, in addition to any other liability he may have incurred by his proceedings.

CHAPTER IX.

REFERENCES TO HIGH COURT.

69. If two or more Judges of the Small Cause Court sit together in any suit, or in any proceeding under Chapter VII of this Act, and differ in their opinion as to any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits,

or if in any suit or any such proceeding, in which the amount or value of the subject-matter exceeds five hundred rupees, any such question arises, and either party so requires,

the Small Cause Court shall draw up a statement of the facts of the case, and refer such statement, under section 617 of the Code of Civil Procedure, for the opinion of the High Court, and shall either reserve judgment or give judgment contingent upon such opinion.

70. When judgment is given under section sixty-nine contingent upon the opinion of the High Court, the party against whom such judgment is given shall at once furnish security, to be approved by the Small Cause Court, for the costs of the reference to the High Court and for the amount of such judgment :

Provided that no security for the amount of such judgment shall be required in any case in which the Judge who tried the case has ordered such amount to be paid into Court, and the same has been paid accordingly.

Unless such security as aforesaid is at once furnished, the party against whom such contingent judgment has been given shall be deemed to have submitted to the same.

If no such security given, party to be deemed to have submitted to judgment.

CHAPTER X.

FEES AND COSTS.

Institution-fee.

71. A fee not exceeding—
(a) when the amount or value of the subject-matter does not exceed five hundred rupees—the sum of two annas in the rupee on such amount or value,

(b) when the amount or value of the subject-matter exceeds five hundred rupees—the sum of sixty-two rupees eight annas, and one anna in the rupee on the excess of such amount or value, over five hundred rupees,

shall be paid on the plaint in every suit, and every application under section thirty-eight or section forty-one ; and no such plaint or application shall be received until such fee has been paid.

An additional fee of ten rupees shall be paid on the filing of every agreement under section twenty:

72. The fees specified in the third and fourth columns of the fourth Schedule hereto annexed shall be paid previous to the issue in any suit or in any proceeding under Chapter VII of this Act of the processes, to which the said columns respectively relate, by the persons on whose behalf such processes are issued, when the amount or value of the subject-matter exceeds the sum specified in the first column, but does not exceed the sum specified in the second column of the said Schedule.

73. Whenever any such suit or proceeding is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the Small Cause Court to the parties by whom the same have been respectively paid.

74. The Small Cause Court may, whenever it thinks fit, receive and register suits instituted, and applications under section forty-one made, by poor persons, and may issue processes on behalf of such persons, without payment or on a part-payment of the fees mentioned in sections seventy-one and seventy-two.

75. The Local Government may, from time to time, by notification in the official Gazette, vary the amount of the fees payable under sections seventy-one and seventy-two :

Provided that the amount of such fees shall in no case exceed the amount prescribed by the said sections.

76. The expense of employing an advocate, vakil, attorney or other legal practitioner incurred by any party shall not be allowed as costs in any suit or in any proceeding under Chapter VII of this Act, in the Small Cause Court, in which suit or pro-

Fees for processes.

Repayment of half fees on settlement before hearing.

Fees and costs of poor persons.

Power to vary fees.

Expense of employing legal practitioners.

ceeding the amount or value of the subject-matter does not exceed twenty rupees, unless the Court is of opinion that the employment of such practitioner was under the circumstances reasonable.

77. Nothing contained in this chapter shall affect the provisions of sections 3, 5 and 25 of the Court Fees Act, 1870, saved.

CHAPTER XI.

MISCONDUCT OF INFERIOR MINISTERIAL OFFICERS.

78. The Chief Judge may, by order, fine, in an amount not exceeding one month's salary, any clerk, bailiff or other inferior ministerial officer of the Court who is guilty of misconduct or neglect in the performance of the duties of his office, and such fine may be deducted from his salary.

79. If any clerk, bailiff or other inferior ministerial officer of the Small Cause Court who is employed as such in the execution of any order or warrant, loses, by neglect, connivance or omission, an opportunity of executing such order or warrant, he shall be liable, by order of the Chief Judge, on the application of the person injured by such neglect, connivance or omission, to pay such sum, not exceeding in any case the sum for which the said order or warrant was issued, as, in the opinion of the Chief Judge, represents the amount of the damage sustained by such person thereby.

80. If any clerk, bailiff or other inferior ministerial officer of the Small Cause Court is charged with extortion or misconduct while acting under colour of its process, or with not duly paying or accounting for any money levied by him under its authority, the Court may inquire into such charge, and may make such order for the repayment or payment of any money so extorted, or of any money so levied as aforesaid, and of damages and costs, by such officer, as it thinks fit.

81. For the purposes of any inquiry under this chapter, the Small Cause Court shall have all the powers of summoning and enforcing the attendance of witnesses and compelling the production of documents which it possesses in suits under this Act.

82. Any order under this chapter for the payment or repayment of money may, in default of payment of the amount payable thereunder, be enforced by the person to whom such amount is payable as if the same were a decree of the Small Cause Court in his favour.

CHAPTER XII.

CONTEMPT OF COURT.

83. When any such offence as is described in section 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of the Small Cause Court, the Court may cause the offender to be detained in custody; and, at any time before the rising of the Court on the same day, may, if it thinks fit, take cognizance of the offence, and punish the offender with fine which may extend to two hundred rupees, and in default of payment of such fine with imprisonment in the civil jail for a term which may extend to one month unless such fine is sooner paid.

84. In every such case the Court shall record the facts constituting the offence, the statement (if any) made by the offender, and the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Court when interrupted or insulted was sitting, and the nature of the interruption or insult offered.

85. If the Court considers that a person accused of any offence referred to in section eighty-three and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or if the Court is for any other reason of opinion that the case should not be disposed of under section eighty-three, the Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Presidency Magistrate, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, may forward him under custody to such Magistrate.

Such Magistrate shall deal with the accused person in the manner provided by the Presidency Magistrates Act, 1877; and may sentence the offender to punishment as provided in the section of the Indian Penal Code under which he is charged.

86. When the Court has, under section eighty-three or section eighty-five, punished an offender, or forwarded him to a Presidency Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of the Court, or on apology being made to its satisfaction.

87. If any witness before the Small Cause Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, the Court may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to answer such questions or to produce such document, as the case may be, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section eighty-three or section eighty-five.

88. Any person deeming himself aggrieved by an order under section eighty-three or section eighty-seven may appeal to the High Court, and the provisions of the Presidency Magistrates Act, 1877, relating to appeals shall, so far as may be, apply to appeals under this section.

CHAPTER XIII.

MISCELLANEOUS.

89. Notices to produce documents, summonses to witnesses, and all other processes issued in the exercise of any jurisdiction conferred on the Small Cause Court by this Act, except summonses to defendants and writs of execution, may, if the Court by general or special order so directs, be served by such persons as the Court, from time to time, appoints in this behalf.

90. The Small Cause Court shall keep such registers, books and accounts, and submit to the High Court such statements and returns, as may, subject to the approval of the Local Government, be prescribed by the High Court.

91. The Small Cause Court shall comply with such requisitions as may from time to time be made by the Local Government or High Court for records, returns and statements in such form and manner as such Government or Court, as the case may be, thinks fit.

92. The Small Cause Court shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government.

Such list, when it has received such approval, shall be published in the local official Gazette, and the said holidays and vacations shall be observed accordingly.

93. The Governor General and Members of his Council, the Governors of Fort St. George and Bombay and the Members of their respective Councils, the Lieutenant-Governor of Bengal, and the Chief Justices and Judges of the High Courts established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, shall not be liable to arrest by order of the Small Cause Court.

No suit to lie upon decree of Court.

94. No suit shall lie on any decree of the Small Cause Court.

95. Any person ordered by the Small Cause Court to be imprisoned may be imprisoned in such place as the Local Government, from time to time, appoints in this behalf.

96. If any person against whom any suit is brought for anything purporting to be done by him under this Act has, before the institution of the suit, tendered sufficient amends to the plaintiff, the plaintiff shall not recover.

97. All prosecutions for anything purporting to be done under this Act must be commenced within three months after the offence was committed.

THE FIRST SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

A.—Charters of the Supreme Courts.

Date.		Extent of repeal.
26th March, 1774	Charter of the Supreme Court at Fort William.	Clause 21.
26th December, 1800.	Charter of the Supreme Court at Madras.	Clause 47.
8th December, 1823.	Charter of the Supreme Court at Bombay.	Clause 59.

B.—Acts of the Governor General in Council.

Number and year.	Subject or short title.	Extent of repeal.
IX of 1850 ...	For the more easy recovery of small debts and demands in Calcutta, Madras and Bombay.	So much as has not been repealed.
XX of 1857 ...	To amend Act IX of 1850.	The whole.
XXVI of 1864	To extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras and Bombay, and to provide for the appointment of an increased number of Judges of these Courts.	So much as has not been repealed.
I of 1875 ...	To regulate Distresses for Rents in the Presidency-towns.	The whole.
X of 1877 ...	The Code of Civil Procedure.	Section eight, para. 2.

C.—Act of the Governor of Bombay in Council.

Number and year.	Subject.	Extent of repeal.
VI of 1864 ...	For the better regulation of the diet-money of persons imprisoned by the Bombay Court of Small Causes.	So much as has not been repealed.

THE SECOND SCHEDULE.

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

PRELIMINARY : Section 2, Interpretation-clause.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.

CHAPTER II.—Of the Place of suing, except sections 15 to 19 (both inclusive), section 20, paragraph 4, sections 22, 23 and 24 and section 25, paragraphs 2 and 3.

CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule 2.

CHAPTER V.—Of the Institution of Suits, except section 53, clause (c), section 55, section 57, clause (b), and sections 58 and 62.

CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65, 66 and 86.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141 (except the third sentence), 142, 143 and 145.

CHAPTER XI.—Settlement of issues, sections 150 and 151.

CHAPTER XII.—Disposal of the Suit at the first hearing, except sections 154 and 155.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive).

CHAPTER XVI.—Of Affidavits.

THE SECOND SCHEDULE—*contd.*

CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).

CHAPTER XVIII.—Of Costs.

CHAPTER XIX.—Of the Execution of Decrees, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of Requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVII.—Suits by or against Government, or public officers.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.

CHAPTER XXXV.—Interlocutory orders, sections 498, 499, 500 and 502.

CHAPTER XXXVI.—Appointment of Receivers, section 503.

CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause b, as relates to immoveable property.

CHAPTER XLVI.—Of Reference to and Revision by High Court.

CHAPTER XLIX.—Miscellaneous, sections 640 to 651 (both inclusive).

THE THIRD SCHEDULE.

FORMS.

A.

[See section 53.]

*In the Small Cause Court for**A. B.* — (Plaintiff),*versus**C. D.* — (Defendant).

A. B. of — — — — —, in the town of — — — — —, maketh oath [or affirms] and saith that *C. D.* — — — — —, of — — — — —, is justly indebted to — — — — — in the sum of Rs. — — — — — for arrears of rent of the house and premises No. — — — — —, situated at — — — — —, in the town of — — — — —, due for — — — — — months, to wit from — — — — — to — — — — —, at the rate of Rs. — — — — — per mensem.

Sworn [or affirmed] before me the — — — — — day of — — — — — 188 —

Judge [or Registrar.]

B.

[See section 54.]

In the Small Cause Court for

FORM OF WARRANT.

I hereby direct you to distrain the moveable property of *C. D.*, on the house and premises situate at No. — — — — —, in the town of — — — — —, for the sum of — — — — — Rs. and the costs of the distress, according to the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882. Dated — — — — — day of — — — — —

(Signed and sealed).

To *E. F.*, Bailiff and Appraiser.

C.

[See section 59.]

In the Small Cause Court for

FORM OF INVENTORY AND NOTICE.

(State particulars of property seized).

Take notice that I have this day seized the moveable property contained in the above inventory for the sum of — — — — — Rs., being the amount of — — — — — months' rent due to *A. B.* at — — — — — last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Judges or the Registrar of the Small Cause Court to the contrary, the same will be appraised and sold pursuant to the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882. Dated the — — — — — day of — — — — — 188 —

(Signed) *E. F.*,*Bailiff and Appraiser.*To *C. D.*

D.

[See section 64.]

In the Small Cause Court for

Take notice that we have appraised the moveable property seized on the — — — — — day of — — — — —, under the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882, of which seizure and property a notice and inventory were duly served upon you [or upon — — — — — on your behalf, as the case may be] under date the — — — — —, and that the said property will be sold on the [two clear days at least after the date of the notice] at — — — — — pursuant to the provisions of the said Act. Dated this — — — — — day of — — — — — 188 —

(Signed) *E. F.*,*G. H.*,*Bailiffs and Appraisers.*To *C. D.*

E.

[See section 66.]

In the Small Cause Court for

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT.

Sums sued for.		Affidavit and warrant to distrain.		Order to sell.		Commission.		Total.	
Rs.	Rs.	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.
1 and under 5	...	0	4 0	0	8 0	0	8 0	1	4 0
5	10	0	8 0	0	8 0	1	0 0	2	0 0
10	15	0	8 0	0	8 0	1	8 0	2	8 0
15	20	0	8 0	1	0 0	2	0 0	3	8 0
20	25	0	12 0	1	0 0	2	8 0	4	4 0
25	30	1	0 0	1	0 0	3	0 0	5	0 0
30	35	1	0 0	1	0 0	3	8 0	5	8 0
35	40	1	0 0	1	8 0	4	0 0	6	8 0
40	45	1	4 0	2	0 0	4	8 0	7	12 0
45	50	1	8 0	2	0 0	5	0 0	8	8 0
50	60	2	0 0	2	0 0	6	0 0	10	0 0
60	80	2	8 0	2	8 0	6	8 0	11	8 0
80	100	3	0 0	3	0 0	7	0 0	13	0 0
Upwards of 100	...	3	0 0	3	0 0	7 per centum	...	...	...

The above scale includes all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be subpoenaed, in which case each subpoena for sums under Rs. 40 must be paid for at four annas each, and twelve annas above that amount; and also where peons are kept in charge of property distrained, four annas per day must be paid per man.

THE FOURTH SCHEDULE.

(See section 72.)

FEES FOR SUMMONSES AND OTHER PROCESSES.

When the amount or value of the subject-matter exceeds	But does not exceed	Fee for summons.			Fee for other processes.		
Rs.	Rs.	Rs.	A.	P.	Rs.	A.	P.
0	10	0	2	0	0	2	0
10	20	0	4	0	0	4	0
20	50	0	8	0	0	8	0
50	100	1	0	0	1	0	0
100	200	1	4	0	2	0	0
200	300	1	8	0	3	0	0
300	400	1	12	0	4	0	0
400	500	2	0	0	5	0	0
500	600	2	4	0	6	0	0
600	700	2	8	0	7	0	0
700	800	2	12	0	8	0	0
800	900	3	0	0	9	0	0
900	1,000	3	4	0	10	0	0
1,000	1,100	3	6	0	10	8	0
1,100	1,200	3	8	0	11	0	0
1,200	1,300	3	10	0	11	8	0
1,300	1,400	3	12	0	12	0	0
1,400	1,500	3	14	0	12	8	0
1,500	1,600	4	0	0	13	0	0
1,600	1,700	4	2	0	13	8	0
1,700	1,800	4	4	0	14	0	0
1,800	1,900	4	6	0	14	8	0
1,900	2,000	4	8	0	15	0	0

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 18, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882 :—

We, the undersigned members of the Select Committee to which the Bill to provide for the Relief of Encumbered Estates in the Jhānsi Division of the North-Western Provinces was referred, have considered the Bill and the papers noted in the margin, and have the honour to present this further report.

The Bill, as amended by us, was laid before the Council, with our report dated 4th February, 1881, and was sent to the Local Government for opinion.

The Government of the North-Western Provinces replied in their Secretary's letter, No. 629, dated 25th April, 1881. In that letter, the Lieutenant-Governor suggested an entirely new plan for dealing with the Jhānsi question, and forwarded a memorandum prepared by Mr. Bazett Colvin, and the rough draft of a new Bill.

It is this new Bill which we have now had under consideration.

The chief points of the present scheme, as laid down by Mr. Colvin, are as follows :—

- (1). The indebted zamīndār, or an officer appointed for the purpose by the Local Government, may apply to the Commissioner of the Division, stating the debts and liabilities of such zamīndār.
- (2). The Commissioner may refer the application to an officer styled "the Special Judge", who is to be appointed for this purpose, and who may, if the Local Government pleases, be one of the District staff.
- (3). On the receipt of an application by the Special Judge, all claims against the indebted zamīndār are to be called in.
- (4). In dealing with the claims, the Special Judge is to have powers similar to those conferred on the Courts by the Dekkhan Agriculturists' Relief Act, No. XVII of 1879.
- (5). All proceedings, of whatever kind, taken in other Courts against the indebted zamīndār, are to be for ever stayed; and he is to be disabled from contracting fresh liabilities, until certain conditions have been fulfilled.
- (6). The Special Judge will determine the amount of the debts and liabilities of the zamīndār, and will ascertain the nature and amount of property possessed by him, other than his proprietary rights in land.
- (7). If the value of such property, other than as aforesaid, is sufficient to pay the debts, the Special Judge will give the creditors decrees, which they may execute through the ordinary Civil Courts.
- (8). If such value is not so sufficient, the Special Judge will submit to the Commissioner a report showing the amount of the debts due by the zamīndār, and detailing the property, other than proprietary rights in land, belonging to such zamīndār.

- (9). An arbitrary value is then to be put on the zamíndár's proprietary rights in land ; (1), for the purpose of a loan from Government, a sum equal to eight times the nett annual profits derived from such rights ; (2), for the purchase of such rights by Government, a sum equal to sixteen times and two-thirds such nett annual profits.
- (10). If the debts certified by the Special Judge can be met by the proceeds of such other property as the indebted zamíndár possesses, together with a sum equal to the loan value of his proprietary rights in land, the zamíndár is to be asked if he will accept a loan from Government. If he accepts, the money is to be advanced from the public treasury, and the debts are to be paid. If he declines, the Commissioner may sell his proprietary rights by auction, to the extent necessary to meet the claims certified by the Special Judge.
- (11). When the zamíndár accepts a loan, the Government will have a lien on his land. If he fails to repay the loan within the time laid down for that purpose by the Commissioner, his proprietary rights, or such part of them as may be necessary to cover the unpaid portion of the loan, shall vest in the Secretary of State for India in Council.
- (12). When the debts certified by the Special Judge, exceed in amount the aggregate value of the zamíndár's other property and of his proprietary rights in land as estimated for the purpose of a loan, the zamíndár is to be declared to be insolvent, and his proprietary rights in land are to be sold by auction.
- (13). Such rights will be put up for sale at the upset price of sixteen times and two-thirds the nett annual profits, and sold to the highest bidder above that sum. If there is no bid, the Commissioner will pay to the insolvent's estate a sum equal to sixteen times and two-thirds the nett annual profits. The debts will be paid off, so far as may be practicable, and the insolvent's proprietary rights in land will vest in the Secretary of State for India in Council.
- (14). In all cases in which the proprietary rights shall vest in the Secretary of State for India in Council, the zamíndár will continue to hold his sîr-land as an ex-proprietary tenant. And the same consequence ensues, as a matter of course, when his rights are sold on his refusal to accept a loan.
- (15). On the final completion of any of these proceedings, that is to say, when the zamíndár's proprietary rights have been sold, or when they have vested in the Secretary of State for India in Council, or when the loan has been re-paid, the Commissioner will declare the disabilities imposed on the zamíndár to be removed.

The zamíndár then will be in this position. If he has taken a loan, he will be liable for the repayment of the loan, by instalments, with interest. He will have to pay these sums in addition to his land-revenue, but they will probably be less than the sums extracted from him by his creditors. He will have his sîr-land to live upon, together with whatever remains to him out of his rental, after the payments of instalments of the loan, interest thereon, land-revenue and rates. He will be freed from all other liabilities and encumbrances, and, after the loan is re-paid, will be restored to the full enjoyment of his rights.

If he refuses the loan, he will lose his proprietary rights, in whole or in part, but he will be completely freed from debt, and will continue to hold his sîr-land as an ex-proprietary tenant.

Such also will be his position if he is declared an insolvent.

We have made the following material alterations in the Bill, as drafted by Mr. Bazett Colvin :—

Firstly, Mr. Colvin provided that, if the debts, as found by the Special Judge, could be met by the proceeds of the sale of the zamíndár's property, other than his proprietary rights in land, the Special Judge should give the creditors decrees and leave them to get satisfaction in ordinary course of law. He provided also that, in such case, the zamíndár's disabilities were to cease.

It appears to us that the result of this proceeding would be to start the zamíndár on a fresh career, with decrees hanging over him, to meet which he would probably raise fresh loans.

We have provided, therefore, that in these cases also the Special Judge shall send a report to the Commissioner, who will cause the property enumerated in the Special Judge's report, or a portion of it, to be sold. If the proceeds are sufficient to pay the debts as determined by the Special Judge, the Commissioner will pay such debts, and the zamíndár will thereupon be discharged from all liabilities.

If the proceeds are not so sufficient, the Commissioner will cause the valuation of the zamíndár's proprietary rights to be made, and the case will go on as contemplated by Mr. Colvin.

Secondly, we think that the value proposed to be put upon the zamíndár's interest in the land is too high. It is probably three times as much as property of the kind in Jhânsî would fetch at public auction. We assent to the principle that the zamíndár's creditors, whose contracts we propose to override, should be generously dealt with ; but we do not think it is safe to advance more than six times the nett annual profits of the property as a loan, or to give more than ten times such profits for the purchase of such property.

The interest chargeable on loans advanced by Government under the Bill has been fixed at five per cent. simple interest, with the assent of the Financial Department. The Bill has been amended accordingly.

Thirdly, we think that, when the debts of the zamíndár can be met with a loan, it is unnecessary to provide that his proprietary rights in land shall, on his failure to repay the loan, vest in the Secretary of State for India in Council.

The necessary corollary of this provision is that, when part of the loan has been re-paid, part only of the proprietary rights shall be forfeited. The result will be, that small parts of villages or shares in villages will belong to Government and much trouble will be given to the administration.

It seems to us better to provide that, on the occurrence of a default in the payment of any instalment of principal or interest, the whole sum due shall be deemed to be an arrear of land-revenue, and shall be recoverable as such.

This provision will give the Deputy Commissioner ample power to take possession of the defaulter's land, and, if necessary, will enable Government to sell the defaulter's proprietary rights under the land-revenue law.

The objection taken to this amendment is, that it will compel the district-officer to manage the land. But in any case, whether he assumes possession for a term of years as we propose, or whether the proprietary rights of the defaulter are vested in the Secretary of State for India in Council, some arrangement will have to be made for the management of the land and the collection of the rents. There will be no more difficulty in the one case than in the other.

The Bill appears to us now to be put in as simple a shape as is practicable.

We recommend that the Bill, as now amended, be published in the *Gazette of India* and in the local official Gazette.

C. H. T. CROSTHWAITE.

WHITLEY STOKES.

RIVERS THOMPSON.

E. BARING.

W. C. PLOWDEN.

The 16th March, 1882.

No. III.

THE JHÁNSÍ ENCUMBERED ESTATES BILL, 1882.

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No. III.**A Bill to provide for the relief of Encumbered Estates in the Jhānsī Division of the North-Western Provinces.**

WHEREAS many zamīndārs in the Jhānsī Division of the North-Western Provinces are in debt, and their immoveable property is subject to encumbrances, and it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.**PRELIMINARY.**

1. This Act may be called "The Jhānsī Encumbered Estates Act, 1882";
 Short title. and it shall come into force
 Commencement. on the passing thereof.
2. In this Act—
 Interpretation clause. "zamīndār" means a proprietor of land or of
 "zamīndār": any share in land assessed
 to revenue, and includes an
 ubāridār:
 "sīr-land": and "sīr-land" means—
 (a) land recorded as sīr at the last settlement or
 revision of settlement of the district in which it is
 situate, and continuously so recorded since;
 (b) land continuously cultivated for twelve years
 by the proprietor himself with his own stock or by
 his servants, or by hired labour;
 (c) land recognized by village-custom as the
 special holding of a co-sharer, or treated as such
 in the distribution of profits or charges among the
 co-sharers.

CHAPTER II.**APPOINTMENT OF OFFICERS.**

3. The Local Government may, from time to time,
 Power to appoint a by notification in the official
 special Judge. Gazette, appoint, for any
 local area in the Jhānsī Divi-
 sion, a special Judge, who shall exercise the powers
 conferred, and perform the duties imposed, by this
 Act on such officer.
 The Local Government may, at any time, by a
 like notification, suspend or
 Power to suspend or remove special Judge. remove any special Judge so
 appointed.

CHAPTER III.**OF THE APPLICATION AND PRELIMINARY INQUIRY.**

4. At any time within twelve months after a
 Application for the special Judge is appointed for
 benefit of this Act. any local area, any zamīndār
 owning land in such area, or
 such officer as the Local Government may, from

time to time, appoint in this behalf, may apply, in writing, to the Commissioner of the Jhānsī Division, stating that such zamīndār is subject to debts or liabilities other than debts due, or liabilities incurred, to Government, or that his immoveable property is encumbered with debts and liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to him:

Provided that, when such zamīndār is a disqualified proprietor within the meaning of section 194 of the North-Western Provinces Land-revenue Act, 1873, such application shall be made—

- (a) when his property is under the superintendence of the Court of Wards, by the manager of his property, with the consent of that Court; and
- (b) when his property is not under such superintendence, by the Deputy Commissioner of the district in which such property is situate.

The Local Government may, from time to time, by notification in the official Gazette, extend the time for making applications under this section.

5. When any such application is made in the case of any zamīndār, the Commissioner shall direct an inquiry to be made by the special Judge—

(a) into the nature and amount of such debts and liabilities other than debts due, and liabilities incurred to, Government; and

(b) into the sufficiency of such zamīndār's property, whether moveable or immoveable, (exclusive of the property mentioned in the first proviso to section 266 of the Code of Civil Procedure), to discharge such debts and liabilities other than as aforesaid.

6. When an inquiry has been directed under section five, the applicant shall, within a period to be fixed by the Commissioner, submit to the special Judge a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints.

Such statement shall contain, so far as may be practicable,—

- (a) such particulars as the special Judge may require respecting the debts and liabilities, other than as aforesaid, to which the zamīndār is subject, or with which his immoveable property or any part thereof is encumbered;
- (b) the nature and value of the zamīndār's property (exclusive of his proprietary rights in land and the property mentioned in the first proviso to section 266 of the Code of Civil Procedure); and
- (c) the names and residences of his creditors, so far as they are known to, or can be ascertained by, such zamīndār.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code:

Provided that, when the application is made by an officer appointed under section four, or by the Deputy Commissioner, it shall not be necessary to verify such statement; but the zamindár shall, so far as may be practicable, within a period to be fixed by the special Judge, furnish such information regarding the matters mentioned in section six, clauses (a), (b) and (c), as such Judge may require.

CHAPTER IV.

PROOF OF DEBTS AND PROCEDURE OF SPECIAL JUDGE.

7. When the duly verified statement or the information referred to in section six has been submitted or furnished the special Judge shall publish in the official Gazette, a notice in the vernacular language of the district, calling upon all persons having claims against the person or the property of the zamindár, by, or with respect to, whom the application was made, under section four, to present to the special Judge, within two months from the date of such publication, a written statement of such claims.

Provided that, when the claimant satisfies the special Judge that he had sufficient cause for not presenting such statement within such period, the special Judge may receive such statement within a further period of two months from the expiration of the original period.

The special Judge shall also cause copies of such notice to be exhibited at his own office, at the offices of the Commissioner of the Jhānsi Division and the Deputy Commissioner of the district in which the land of such zamindár is situate, and at some conspicuous place in the village where such zamindár resides.

8. After the publication of such notice, the following consequences shall ensue (namely):—

(a) all proceedings then pending in any civil or revenue Court in British India, in respect of all debts and liabilities, other than as aforesaid, to which the zamindár is subject, or with which his immoveable property is encumbered, shall be for ever stayed; and all processes, executions and attachments issued by any such Court, and then in force, in respect of any such debt or liability, shall become null and void;

(b) in respect of such debts and liabilities, no fresh proceedings, processes, executions or attachments shall, except as hereinafter provided, be instituted in, or issued by, any civil or revenue Court in British India;

(c) until the Commissioner has declared, as hereinafter provided, that the zamindár has ceased to be subject to the disabilities mentioned in this clause, such zamindár shall be incompetent to sell, mortgage, exchange, give or, without the consent of the Commissioner, lease, his proprietary rights in land or any part thereof.

9. Every claimant referred to in section seven shall, in the written statement of his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the special Judge along with such written statement.

If the document be an entry in any book, the claimant shall produce the book to the special Judge together with a copy of the entry on which he relies. The special Judge shall mark the book, for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession, or under the control, of the claimant is not delivered or produced by him, as required by this section, the special Judge may refuse to receive such document in evidence on the claimant's behalf, at the investigation of the case.

10. Every such claim (other than claims of the Government), not made within the time and in the manner hereby required, shall be deemed, for all purposes, and on all occasions, to have been duly discharged.

11. The special Judge shall hear the zamindár, or, when the application has been made on behalf of a disqualified proprietor, shall hear the manager of his property, or the Deputy Commissioner, as the case may be, in answer to each claim so made; and, if the amount of any such claim (other than a claim decreed by a competent Court) is disputed, shall inquire into the history and merits thereof from the commencement of the transactions between the parties, and shall, as hereinafter provided, determine the amount (if any) justly due to the claimant.

12. When the special Judge inquires, under section eleven, into the history and merits of a claim, he shall—

notwithstanding any agreement between the zamindár and the claimant, or the persons (if any) through whom they claim, as to allowing compound interest, or as to setting off the profits of mortgaged property in lieu of interest without an account, or otherwise determining the manner of taking the account, and

notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account from the commencement of the transactions between the parties, and take that account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken ;

(b) in the account of principal, there shall be debited to the zamindár such money as may, from time to time, have been actually received by him, or on his account, from the claimant, and the price of goods (if any) sold to him by the claimant, as part of the transactions between them ;

(c) in the account of principal, there shall not be debited to the zamindár any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure ;

(d) in the account of principal, there shall not be debited to the zamindár any accumulated interest which has been converted into principal at any statement or settlement of account, or by any contract made in the course of the transactions, unless the special Judge, for reasons to be recorded by him in writing, deems such debit to be reasonable ;

(e) in the account of interest, there shall be debited to the zamindár monthly simple interest on the balance of principal for the time being outstanding, at the rate allowed by the special Judge as hereinafter provided ;

(f) all money paid by, or on account of, the zamindár to the claimant or on his account, and all profits, service, or other advantages of every description received by the claimant in the course of the transactions, shall be credited first in the account of interest ; and, when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the zamindár in the account of principal :

Explanation—The advantages mentioned in this clause shall be estimated, if necessary, at such money-value as the special Judge may determine in his discretion, or with the aid of arbitrators appointed by him ;

(g) the accounts of principal and interest shall be made up to the date of making the claim ; and the aggregate of the balances (if any) appearing due on both such accounts against the zamindár at that date, shall be deemed to be the amount due at that date, except when the balance appearing due on the account of interest exceeds that appearing due on the account of principal, in which case double the latter balance shall be deemed to be the amount then due.

13. The interest to be awarded in taking an account, according to the rules set forth in section twelve, shall be—

(a) the rate (if any) agreed upon between the zamindár and the claimant, or the persons (if any)

through whom they respectively claim, unless such rate is deemed by the special Judge to be unreasonable ; or

(b) if such rate is deemed by the special Judge unreasonable, or if no rate was agreed upon, or, when any agreement to set off profits in lieu of interest without an account, entered into between the zamindár and the claimant, or the persons (if any) through whom they respectively claim, has been set aside by the special Judge, such rate as the special Judge deems reasonable.

14. If the amount so determined to be due cannot, in the opinion of the special Judge, be paid at once, he shall then proceed to rank the claims according to the order in which they shall be paid or discharged, and to fix the interest (if any) to be paid on the amounts thereof respectively from the date of the final decision thereon to the date of the payment and discharge thereof.

15. When the amount of the claims has been finally determined in the manner hereinbefore prescribed, the special Judge shall submit a report to the Commissioner, showing the nature and amount of the claims so determined, and also the nature and amount of all the zamindár's property (exclusive of his proprietary rights in land and the property mentioned in the first proviso to section 266 of the Code of Civil Procedure), which may be available for the payment or discharge of the same.

CHAPTER V.

PROCEDURE OF COMMISSIONER AND MODE OF LIQUIDATION.

16. On receiving such report, the Commissioner shall direct that the property reported by the special Judge, as available for the discharge of the claims determined by him, or any specified portion of such property, be sold by public auction, and, from the proceeds thereof, shall pay or discharge, so far as practicable, the amount of the said claims.

If such proceeds are not sufficient to pay or discharge in full such amount, the Commissioner shall direct the value of the zamindár's proprietary rights in land, to be ascertained in the manner following :—

For the purposes of a loan, the value of such rights shall be estimated to be a sum amounting to six times the nett annual profits of such zamindár.

For the purposes of purchase by Government, the value of such rights shall be estimated to be a sum amounting to ten times such nett annual profits.

Explanation—The expression "nett annual profits" means the aggregate amount—

(a) of the rents which a zamíndár is entitled to receive as such annually from his tenants;

(b) of all profits received by him as zamíndár, and of the rent which he would have to pay for his sár-land (if any), if he were an exproprietary tenant thereof,

after deducting, from such aggregate amount, the Government revenue and all rates payable by him, under the North-Western Provinces Local Rates Act, 1878, or any other Act for the time being in force.

17. When the value of the zamíndár's proprietary rights has been ascertained as directed in section sixteen, the Commissioner shall proceed as follows:—

Proceedings in liquidation.

(a) If the sum at which the zamíndár's proprietary rights in land have been valued for the purposes of a loan, is sufficient to pay or discharge the balance of the said claims, the Commissioner may, with the consent of the zamíndár, direct such sum as may be necessary, not being more than the amount of such valuation, to be advanced from the public treasury as a loan to the zamíndár, and shall, from the sum so advanced, pay or discharge in full the balance of the said debts and liabilities.

(b) If the zamíndár does not consent to accept such loan, the Commissioner may direct that any portion, or, if necessary, the whole, of such rights, shall be sold in the manner hereinafter prescribed, in order to discharge such balance. Out of the proceeds of such sale, the Commissioner shall, so far as practicable, discharge such balance.

(c) If the sum at which the zamíndár's proprietary rights in land have been valued, for the purposes of a loan, is not sufficient to discharge the balance of the said debts and liabilities, the Commissioner may order his proprietary rights in land to be sold, in the manner hereinafter prescribed.

The purchaser, under this section, of the zamíndár's proprietary rights shall take the same free of all encumbrances created by such zamíndár, or the person through whom he claims.

18. When an order for the sale of the proprietary rights of any zamíndár has been made hereunder, the Commissioner may order such rights to be attached and taken under the management of the Deputy Commissioner, who shall have, for this purpose, the same powers as are conferred, for the management of a mahál, on a Collector by the North-Western Provinces Land-revenue Act, 1873, section one hundred and fifty-five.

Such management shall continue until such rights are sold hereunder.

19. All sales, under this Act, of proprietary rights in land, shall be made by public auction in the manner prescribed by the said North-Western Provinces Land-revenue Act, 1873, for the sale of immoveable property for arrears of land-revenue. If, at the public auction of any zamíndár's proprietary rights in land, any bid be made for such rights above the sum at which they have been valued for the purposes of purchase by Government, such rights shall be sold to the highest bidder; and the proceeds of such sale shall be paid to the Deputy Commissioner or such officer as the Commissioner may direct. If no such bid be made, the Commissioner shall direct a sum of money equal to the amount of such valuation to be paid from the public treasury to the Deputy Commissioner or such officer.

20. The Deputy Commissioner or such officer, as the case may be, shall thereupon, subject to the control of the Commissioner,—

firstly—pay, from the money which he has received under section nineteen, the debts, fines and liabilities (if any) due or incurred by the zamíndár to the Government;

secondly—pay all costs awarded against the zamíndár by the special Judge or Commissioner;

thirdly—out of the balance of such money, pay or discharge, so far as may be practicable, the claims against the zamíndár determined by the special Judge in the order in which they are ranked under section fourteen by such Judge;

fourthly—pay the surplus (if any) to the zamíndár.

21. When a sum of money has been lent, under section seventeen, to a zamíndár, and applied in payment or discharge of the claims against him the following consequences shall ensue (namely):—

(a) his proprietary rights in land shall be deemed to be mortgaged to the Secretary of State for India in Council, until such loan shall have been fully paid off;

(b) he shall be bound to repay the amount of such loan, with interest thereon at the rate of five per cent. per annum, by yearly instalments, within such term, not exceeding ten years, as the Commissioner may prescribe;

(c) in the event of his failing to pay any such instalment of principal or interest on the day fixed for the payment thereof, the whole sum remaining due on account of principal or interest, or both, shall be recoverable as an arrear of land-revenue due by him.

22. When a sum of money has been paid from the public treasury, as provided in section nineteen, and applied towards paying or discharging the claims against

Conditions of purchase by the Government.

a zamindár, the following consequences shall ensue (namely) :—

(a) his proprietary rights in land shall vest in the said Secretary of State in Council;

(b) in respect of his sár-land, the proprietary rights in which are, under this section, vested in the said Secretary of State in Council, the zamindár shall be deemed to be an ex-proprietary tenant holding such land directly under the Government.

Power to declare that zamindár has ceased to be subject to disabilities. 23. In each of the following cases (namely) :—

(a) when the amount lent, under section seventeen, to a zamindár has been repaid, together with the interest due thereon, or

(b) when such amount has been recovered from him as an arrear of land-revenue or has been remitted, in whole or in part, by the Local Government, or

(c) when the whole, or, where it is necessary to sell only a portion, such portion, of his proprietary rights in land has been sold under this Act to the highest bidder, or such rights have vested in the said Secretary of State in Council, under section twenty-two;

the Commissioner shall declare that such zamindár has ceased to be subject to the disabilities mentioned in section eight, clause (c) :

Provided that in cases coming under clause (b) of this section, no such declaration shall be made without the previous sanction of the Local Government.

CHAPTER VI.

OF APPEAL AND REVISION.

24. An appeal against any decision or order, under this Act, of the special Judge shall lie to the Commissioner, Appeals. if preferred within one month from the date of such decision or order :

Provided that when the Appellant satisfies the Commissioner that he had sufficient cause for not presenting the appeal within such period, such appeal may be admitted after the period prescribed by this section.

Subject to the power of revision next herein-after provided, the decision of the Commissioner on an appeal, under this section, shall be final.

25. The Board of Revenue or the Commissioner may, of its or his

Power to call for proceedings and pass order thereon. sioner may, of its or his own motion, or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions herein contained, as it or he thinks fit :

Provided that nothing in this section shall empower the Commissioner to pass any order reversing or modifying an order previously passed by the Board of Revenue.

CHAPTER VII.

MISCELLANEOUS.

26. The Local Government may, from time to time, make rules consistent with this Act—

(a) to regulate the procedure in all cases under this Act ;

(b) to declare what shall, for the purposes of this Act, be deemed to be the vernacular language of any specified district ; and

(c) generally to carry out the provisions of this Act.

Such rules shall be published in the official Gazette, and, when so published, shall have the force of law.

27. Every investigation conducted by the special Judge, with reference to any claim made to him under this Act, or to any matter connected with such claim, shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code ;

Investigation to be deemed a judicial proceeding. Special Judge deemed public servant within meaning of Indian Penal Code. of the Indian Penal Code ; and the special Judge shall be deemed to be a public servant within the meaning of the said Code.

28. For the purposes of compelling the attendance of witnesses and the production of documents the special Judge shall have the powers conferred on a Civil Court by the Code of Civil Procedure.

Power to - summon witnesses and compel production of documents. Special Judge shall have the powers conferred on a Civil Court by the Code of Civil Procedure.

29. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith pursuant to this Act.

Bar of suits. maintained against any person in respect of anything done by him in good faith pursuant to this Act.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Report of a Select Committee, together with the Bill, as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882 :—

We, the undersigned Members of the Select Committee to which the Bill to consolidate

Preliminary Note by the Commissioner, Jabalpur Division, Central Provinces, dated 1st September, 1873 [Paper No. 1].

Note by Officiating Commissioner, Nagpur Division [Paper No. 2].

Commentary by Officiating Commissioner, Nagpur Division [Paper No. 3].

Note by Officiating Judicial Commissioner, Central Provinces, dated 15th October, 1879 [Paper No. 4].

From Settlement officer, Sirsa, dated 25th August, 1880, and enclosure [Papers No. 5].

„ Commissioner, Haidarabad Assigned Districts, No. 4640, dated 18th September, 1880 [Paper No. 6].

„ Gopal Narayan Ghatate and other malguzars, Nagpur Division, dated 25th December, 1880, and enclosure [Papers No. 7].

„ Lakshmi Narayan Pandit, Pleader, High Court, North-Western Provinces, dated 2nd March, 1881, and enclosure [Papers No. 8].

„ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 2283-112, dated 23rd January, 1881, and enclosures [Papers No. 9].

„ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 353-23, dated 1st February, 1881, and enclosures [Papers No. 10].

„ Officiating Secretary to Chief Commissioner, Central Provinces, No. 3799-208, dated 19th October, 1881, and enclosures [Papers No. 11].

and amend the law relating to Agricultural Tenancies in the Central Provinces was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

2. The Bill introduced on the 6th August, 1880, met with much criticism in the Central Provinces. In May, 1881, the Chief Commissioner

referred the Bill to a Committee composed of officers* belonging to the Central Provinces, whose

*Mr. C. H. T. Craithwaite, Judicial Commissioner.

„ J. W. Neill, Commissioner, Nagpur.

„ J. W. Chisholm, Officiating Commissioner, Nabada.

report has been now under consideration.

The amendments re-

commended by this Committee have received the unqualified support of the Chief Commissioner. They are of such a nature as to render it necessary to re-draft the Bill.

3. We have, accordingly, amended and re-cast the Bill, but the majority of us desire to reserve our opinion as to the expediency of making these amendments until the Bill has been republished in its present shape, and subjected to further criticism. The most important amendments, and those to which we desire to attract particular attention, are as follows :—

(1.)—The Bill, as introduced, withdrew the power of making a distraint for rent, and practically compelled the landlord to sue a tenant on the produce of whose holding he wished to retain a lien for arrears of rent.

The Bill, as now amended, gives no right to distraint, but it maintains the landlord's lien on the produce for rent, and directs a Court executing a decree, other than for rent, by attachment and sale of the produce of a tenant's holding, to pay to the landlord, out of the proceeds of the sale, and before satisfying the decree-holder, any arrear of rent that may be due by the tenant, and likewise the instalment of rent falling due next after the usual date of harvesting the produce attached and sold.

It also allows a landlord, when an arrear is due to him, to prohibit the tenant, for a period of twenty-eight days, from removing the produce of the holding on which the rent is due. It is intended by this provision to give the landlord time to institute a suit and apply to the Court for an order to attach the produce. These provisions do not apply to rent due for a longer period than one year.

(2.)—The Bill, as introduced, took away the right conferred at the settlement on those tenants who are known as absolute occupancy-tenants, of transferring their holdings.

rent which he believes to be due; and such officer shall receive such deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application and that it was made in good faith.

Bill, s. 8.

11. When any deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord on account of rent due.

The officer receiving such deposit may pay the amount thereof to any person appearing to him to be entitled to receive the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing herein contained shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

Bill, s. 9.

12. Every tenant, from whom any sum is levied by his landlord in excess of the rent specified in his lease, or payable under the provisions of this Act, shall be entitled to recover from such landlord a sum not exceeding double the amount so levied.

Bill, s. 9.

13. When any landlord refuses a receipt for rent paid by a tenant, or grants such receipt but refuses or neglects to specify therein the period or crop in respect of which the payment is made, such tenant shall be entitled to recover from such landlord a sum not exceeding double the amount of the rent so paid.

Bill, s. 89, cl. (b).

14. Notwithstanding anything contained in this Act, or in the conditions of settlement, the rent of any tenant may, on the application of the landlord, be enhanced on the ground that the productive power of the tenant's holding has been increased through the agency or at the expense of the landlord. Such enhancement shall bear the same proportion to such rent as the increase so effected in the productive power of the holding bears to the productive power of the holding as it was immediately before such increase was effected.

The rent of an absolute-occupancy tenant shall not be enhanced under this section when the productive power of the holding has been increased by an improvement made by a landlord in contravention of any rule made hereunder.

Bill, s. 89, cl. (d).

15. When the area of a holding is increased or diminished by encroachment, fluvial action, or otherwise, a Revenue-officer may, by

order, on the application of the landlord or of the tenant, fix the rent payable in respect of such holding with reference to such increase or diminution:

Provided that such order shall not bar the landlord's claim to enhance the rent of such holding on other grounds allowed by this Act.

16. The rent of land assessed to land-revenue Bill, s. 54.

Agreement fixing rent on revenue-paying lands beyond term of settlement, voidable. shall not be fixed for a term exceeding the period of the settlement of such land.

All agreements made in contravention of this section shall, as regards the amount of rent, be voidable at the will of either party.

17. In all cases in which a tenant has paid rent Bill, s. 94.

Rents payable in kind may be commuted. in kind, or on the estimated value of a portion of the crop, or by rates varying with the crop, or partly in one of such ways and partly in another or others, the landlord or tenant may apply to commute such rent to a fixed money rent. Such application shall be made,

while the settlement of the district in which such tenant's holding is situate is in progress, to a Settlement-officer; and,

at any other time, to any revenue-officer specially empowered by the Chief Commissioner in this behalf.

On the receipt of such application, such officer shall determine the sum to be paid as money rent and shall order that the tenant shall pay, in lieu of paying his rent in kind or as aforesaid, the sum so determined. If the application is opposed, such officer may, for reasons to be recorded by him in writing, refuse to grant the same.

18. Any tenant not holding under a lease for a fixed period may, at the end Bill, ss. 23, 24, 25, 1

Surrender of holdings. of any agricultural year, surrender his holding, or, with the consent of his landlord, any part thereof. But notwithstanding such surrender he shall continue to be liable for the year next following the date of such surrender for the rent of the holding or part surrendered, unless—

- (a) he gives to his landlord, at least thirty days before the end of such agricultural year, notice in writing of such surrender; or
- (b) he takes a new holding in the same village from the same landlord; or
- (c) he ceases, at least thirty days before the end of such year, to reside in the village in which the surrendered holding is situate; or
- (d) the landlord himself cultivates such holding or lets it to another tenant.

19. The produce of a holding in the occupation Bill, ss. 17, 22, 23, 24, 25, 1

Hypothecation of produce for rent. of a tenant shall be hypothecated for the rent payable in respect thereof, and, if such produce is attached and sold in execution of a decree,

the Court executing the decree shall apply the nett proceeds of the sale in the first instance to satisfy the landlord's claim (if any) for sums due to him in respect of the rent of such holding for the year immediately preceding the attachment, and for the instalment of rent which falls due next after the usual period of harvesting the produce attached.

20. Where an arrear is due from any tenant in respect of his holding, the landlord may, by notice, prohibit removal of produce. the tenant, prohibit the removal of the produce of such holding.

Act XII, 1881,
s. 58.

No such prohibition shall be made in respect of any sum claimed in excess of the rent payable by the tenant for such holding in the preceding year, unless the rent has been enhanced in accordance with the provisions of this Act, nor in respect of an arrear which has been due for a longer period than one year.

No such prohibition shall be made more than once in respect of the same produce.

21. Every notice under section twenty, shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is said to be due, and, when a sum in excess of the rent payable by the tenant in the last preceding year is claimed, the decree, order or agreement, as the case may be, for the payment of such sum.

The notice shall be served on the tenant, or other person who may be in charge of the produce on his behalf, and shall remain in force until the rent specified in such notice is paid, or, if such rent is not paid, until the expiry of twenty-eight days after such notice is so given.

22. Notwithstanding such notice, the tenant may reap, gather or store the produce of his holding, and do all other such acts as may be necessary for the due preservation of the same.

23. Any tenant on whom a notice in respect of the produce of his holding has been served under section twenty, and who, except for any of the purposes mentioned in section twenty-two, while such notice is in force, removes, attempts to remove, or abets the removal of, such produce from the place where it was standing, deposited or stored when such notice was served, and

any landlord who distrains or attempts to distrain the produce of any holding, or prevents, or attempts to prevent, otherwise than in accordance with this Act, the removal of any produce of a holding by the tenant thereof,

shall be punished with fine which may extend to five hundred rupees.

Act XII, 1881,
s. 43:
Bill, s. 18.

24. Whenever rent is taken by division of the produce, or by estimate or appraisal of the crop, if either the landlord or the ten-

ant neglects to attend, either personally or by agent, at the proper time for making such division, estimate or appraisal, or if there is a dispute regarding the division of the said produce, or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as such officer thinks fit, directing him to divide, estimate or appraise the crop.

25. When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-four, such officer may, in his discretion, direct such Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting such assessors (if any), and the procedure to be followed in making such division, estimate or appraisal.

The Commissioner so appointed shall make the division, estimate or appraisal, in accordance with such instructions.

26. When a crop has been estimated or appraised under the foregoing provisions, such estimate or appraisal shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued. Such Revenue-officer shall consider the Commissioner's report, and after such hearing and enquiry (if any), as he may think necessary, shall pass order thereon either confirming or varying the estimate or appraisal, and the rent shall be payable in accordance with such order.

27. In sections nineteen to twenty-four (both inclusive) the produce of a holding means—
(a) crops and other products of the earth standing or ungathered on such holding ;
(b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on such holding or a threshing-ground, or stored in the homestead of the village in which such holding is situate, or in which the tenant, whose holding it is, resides.

B.—Of Absolute Occupancy-tenants.

28. All tenants who, on the day when this Act comes into force, occupy any holding in respect of which they have been recorded in any record-of-rights made before such day as "absolute occupancy-raiyats," or in terms equivalent thereto, shall be deemed to be absolute occupancy-tenants of such holding.

29. The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at the settlement of the district in which such hold-

ing is situate, and the rent so fixed, shall not be enhanced during the currency of such settlement, except under the provisions of section fourteen or section fifteen.

The rent payable in respect of his holding by any such tenant, when this Act comes into force, shall be deemed to have been fixed at the last preceding settlement of the district in which his holding is situate.

30. The right of an absolute occupancy-tenant

Right heritable and transferable after notice to landlord who may claim to purchase at fixed rate.

in his holding shall devolve as if it were land, and shall be transferable by mortgage or sale or gift. Any mortgage of such right for a

longer period than fourteen years made, after this Act comes into force, shall be deemed for the purposes of this Act to be a sale.

If an absolute occupancy-tenant intends to transfer his right in his holding by sale or gift, he shall give to his landlord a written notice of such intention, and the landlord may thereupon—

(a) within one month from the receipt of such notice, claim to purchase such right, at a price equal to five times the yearly rent payable in respect of the holding; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to such rent for one year, and such sum shall be a charge on the holding sold.

Any transfer made in contravention of this section shall be void.

31. An absolute occupancy-tenant shall not be

Absolute occupancy-tenant not liable to ejectment.

liable to be ejected from his holding by his landlord as such for an arrear of rent or for any cause.

The right of such tenant in his holding shall

Right hypothecated or rent.

be deemed to be hypothecated to the landlord for the rent thereof.

32. When the right of an absolute occupancy-

Landlord's rights reserved in sales in execution of decree.

tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall, in respect of such holding, have the same rights as are reserved to him by section thirty in the case of a private sale.

C.—Of Occupancy-tenants.

33. All tenants who, when this Act comes into

Occupancy-tenants.

force, have held the same land continuously for twelve years, otherwise than as abso-

lute occupancy-tenants or sub-tenants, have a right of occupancy in, and shall be deemed to be occupancy-tenants of, such land; Provided that such land is not

(a) sir-land, or

(b) held in lieu of wages, or

(c) held under a written lease in which it is agreed that a right of occupancy in such land

shall not be acquired, or that the tenant shall quit the land at the termination of such lease.

Explanation I.—The occupation of the person from whom the tenant inherited his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

Explanation II.—When, by the custom of any village the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with such custom, from time to time, received in exchange for land previously held by him shall, for the purpose of calculating, under this section, the period of twelve years, be deemed to be the same land as the land which he held prior to such exchange.

34. When the rent of the holding of an occu- New.

Rents only liable to enhancement at intervals of ten years.

pancy-tenant has been fixed by agreement or under this Act, or under any Act hereby repealed, such rent shall not be enhanced until the expiry of ten years from the day on which it was so fixed, except when the settlement of the district in which such holding is situate is in progress, or under the provisions of section fourteen or section fifteen.

35. When any occupancy-tenant dies, his right Bill, s. 81, altered.

Descent of occupancy-tenant in his holding shall devolve right, and right of as if it were land: Provided transfer.

that no collateral relative of such tenant shall be entitled to inherit such right, unless at the death of such tenant he was a co-sharer in the holding.

No right of occupancy shall be transferable in execution of a decree or otherwise than by voluntary transfer between persons in favour of whom, as co-sharers, such right originally arose, or who have become, by succession, co-sharers therein.

36. Subject to the provisions of section thirty- New

Rent of occupancy-tenant.

four, the rent payable by an occupancy-tenant may be fixed on the application either of the tenant or his landlord,

(a) when the settlement of the district in which such holding is situate is in progress, to a Settlement-officer;

(b) during the currency of the settlement of such district, to a Revenue-officer.

On such application the Settlement or Revenue-officer, as the case may be, may fix the rent at a rate, not more than three-fourths of the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsils, for land of similar quality with like advantages.

When the land in respect of which an application is made under this section, has been improved in accordance with this Act by the agency or at the expense of the tenant of such land, the quality and advantages of such land shall, for the purposes of this section, be deemed to be the quality and advantages had and enjoyed by such land immediately before such improvements were made.

37. No occupancy-tenant shall be ejected from his holding, except in execution of a decree of a Civil Court

(a) in a suit for arrears of rent; or,

(b) in a suit for compensation for diverting the land to non-agricultural purposes or for some other act or omission which by custom or contract not inconsistent with this Act or with any other law for the time being in force renders him liable to be ejected.

38. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging such land in accordance with such custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

39. If a tenant having a right of occupancy in any land ceases to hold such land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that such tenant has accepted such other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

D.—Of Sub-tenants.

40. A tenant who holds land from another tenant, is a sub-tenant of such land.

41. A sub-tenant shall hold on such terms as may be agreed upon between him and his landlord.

42. No sub-tenant shall be entitled to retain his holding after the determination of his landlord's interest in the land comprised therein; nor shall he have any claim, for compensation or otherwise, against any one but his own landlord on account of any loss arising to him from such determination.

E.—Of Ordinary Tenants.

43. All tenants who are not absolute occupancy-tenants or occupancy-tenants or sub-tenants, are ordinary tenants.

44. An ordinary tenant shall pay such rent as may, from time to time, be fixed by agreement between him and his landlord:

Provided that, after the rent has been so fixed, it shall not be liable to be changed, except under the provisions of section fourteen or section fifteen, or until the expiry of seven years from the date when it was so fixed.

45. An ordinary tenant shall not be ejected from his holding, except under a decree of a Civil Court, on one or other of the following grounds:

(a) that he has refused to agree to an enhancement of rent demanded by his landlord, in accordance with the provisions of this Act;

(b) that the land is needed for the execution of some work of permanent and general benefit to the village in which such land is situate or to the residents thereof;

(c) any ground mentioned in section thirty-seven clause (a) or clause (b).

46. An ordinary tenant who is ejected, under clause (a) or clause (b) of section forty-five from his holding shall be entitled to receive from his landlord compensation for disturbance.

Such compensation shall be in addition to any compensation due to him hereunder on account of improvements, and shall amount,

(a) if the tenant is ejected under clause (a) of section forty-five, to a sum equal to ten times the yearly increase of rent demanded from him;

(b) if the tenant is ejected under clause (b) of section forty-five, to a sum calculated at the rate of one year's rent of the land from which he is ejected, for every year during which he has occupied such land, subject to a maximum limit of five years' rent.

47. The right of an ordinary tenant in his holding shall not be transferable, except with his landlord's consent, and, where it has not been transferred, shall cease to exist at the death of such tenant: Provided as follows—

(a) the representative (if any) of a deceased ordinary tenant shall be entitled to occupy the holding of such tenant until the end of the agricultural year in which he died;

(b) if such representative be ejected, he shall be entitled to such compensation for improvements as such tenant would have been entitled to, had he been ejected;

(c) when two or more persons have jointly cultivated the same holding as ordinary tenants, the right shall not cease to exist until the death of the last survivor of such persons.

CHAPTER III.

OF IMPROVEMENTS AND COMPENSATION THEREFOR.

48. On the holding of an absolute occupancy-tenant, the tenant, and on the holding of any other tenant, the landlord of such tenant, shall be entitled to make improvements.

If a landlord or tenant, not being so entitled, desires to make improvements on a holding, he shall proceed in such manner as the Chief Commissioner may, from time to time, by rule direct.

Bill, s. 40:
Cf. 33 & 34
Vic., c. 46,
s. 4.

49. Every tenant who is ejected from his holding shall be entitled to compensation for improvements payable to tenants on ejection, made by him or the persons under whom he claims, and for which compensation has not already been made.

Whenever a Court makes a decree or order for the ejection of a tenant, it shall determine the amount of compensation due under this section to such tenant for improvements, and shall make the order of ejection conditional on the payment of such amount to the tenant.

No compensation under this section for an improvement, shall be claimable in any of the following cases, namely:—

(a) where the tenant has made the improvement in contravention of any rule made under section forty-eight and for the time being in force;

(b) where the tenant, having contracted not to make such improvement without giving the landlord reasonable notice to make it, has made it without giving such notice.

Improvements made by a tenant before this Act comes into force, in lands other than sir-land, shall be deemed to have been made in accordance with rules made under section forty-eight, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Bill, s. 41.

50. In estimating the compensation to be awarded under section forty-nine for an improvement, the Court shall have regard—

(a) to the labour and capital expended by the tenant in making such improvement;

(b) to the amount by which the letting value, or the produce of the holding or the value of such produce is increased by such improvement;

(c) to the amount for which the improvement could have been made by the landlord; and

(d) to any reduction or remission of rent made by the landlord to the tenant in consideration of such improvement.

Bill, s. 42.

51. Compensation for improvements may be made in such manner as may be agreed upon by the landlord and the tenant, or may be paid in money by such instalments (if any) as the Court thinks fit.

CHAPTER IV.

JURISDICTION AND PROCEDURE.

Bill, s. 98.

52. No Court other than the Court of a Revenue-officer shall take cognizance of any dispute or matter in which any application of the

nature mentioned in this section might be made namely:—

(a) applications for the appointment of a receiver of rent (section nine);

(b) applications for permission to deposit rent in court (section ten);

(c) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section fourteen);

(d) applications to fix the rent of a holding the area of which has been increased or diminished (section fifteen);

(e) applications for the commutation of rents paid in kind (section seventeen);

(f) applications for a commission to divide, estimate or appraise a crop (section twenty-four);

(g) applications to fix the rent payable by an occupancy-tenant (section thirty-six);

(h) applications relating to such other matters as Revenue-officers are empowered to deal with under this Act.

On any such application being made to the Court of a Revenue-officer it may, subject to the provisions herein contained, grant such relief as the nature of the case requires.

53. In disposing of the matters referred to in section fifty-two, Revenue-officers shall, as nearly as may be practicable, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881.

From every order passed by a Revenue-officer in respect of any such matter, an appeal shall lie as if such order had been passed by such officer under the said Land-revenue Act.

54. Applications to fix the rent of an occupancy-tenant may be made, subject to the provisions of section thirty-four, at any time during the period of such tenant's occupation.

All other applications may be made at any time during the occupation of his holding by the tenant by or in respect of whom such applications are made.

55. In suits under this Act, the Code of Civil Procedure shall apply, as far as may be, to all proceedings for which no special procedure is herein provided.

56. Deputy Commissioners shall, as such, exercise all the powers conferred on a Revenue-officer by this Act.

The Chief Commissioner may, from time to time, confer upon any other Revenue-officer, either by name or by virtue of his office, all or any of such powers.

Bill, s. 100.

57. Except as provided in section fifty-two, Jurisdiction of Civil Courts. the Civil Courts shall have jurisdiction in all suits or proceedings between landlord and tenant: Provided that—

(a) no Judge of a Civil Court of original jurisdiction shall, unless he is also a Revenue-officer, hear any suit between a landlord and a tenant regarding any matter dealt with by this Act; and

(b) such suits shall be heard and determined only in such Courts, competent to try the same, as the Chief Commissioner may, from time to time, direct.

Bill, s. 101.

58. The Chief Commissioner may, from time to time, direct, that all suits, or any specified class of suits, between landlord and tenant shall not be registered in the registers kept under the Code of Civil Procedure for the registration of civil suits, but in such other separate registers as he may prescribe.

Bill, s. 102.

59. In suits under this Act between landlord and tenant, the plaint shall, in addition to the matters mentioned in section fifty of the Code of Civil Procedure, specify the area of the land, and, where the fields, comprised in the holding to which the suit relates, have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which such rent is payable; and, in suits for compensation for improvements, an accurate valuation and description of the improvements.

When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of such land and its boundaries shall be given in the plaint.

Bill, s. 103.

60. In suits and applications under this Act, Legal practitioners' fees not allowed, unless for special reasons. the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that such fees ought to be allowed.

Bill, s. 107.

61. No set-off shall be allowed in any suit under this Act, unless the amount Set-off when allowed. claimed as a set-off has been determined by a decree or order of a competent Court.

Bill, s. 108.

62. In suits under this Act, for arrears of rent, Interest on arrears. interest on such arrears may be allowed up to judgment, at such rate not exceeding twelve per cent. per annum as the Court thinks fit.

Bill, s. 110.

63. When any such suit is decided, whether on No appeal in certain arrear-cases. appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts' Act, 1865, the decision shall not be subject to appeal, unless—

(a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(b) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.

64. No suit for an arrear of rent shall be instituted after three years from the date when the arrear became due; and no other suit under this Act shall be instituted after one year from the date when the cause of action accrued.

Limitation of suits. No process of execution shall be issued on a decree under this Act after three years from the date of such decree, or, in the case of a decree for money, after three years from the date on which the money, to recover which execution is applied for, became payable under the decree.

65. If a decree for an arrear of rent is passed against a tenant other than an absolute occupancy-tenant, and remains unsatisfied at the end of the agricultural year in which such decree was passed, the landlord may apply to the Court, having authority to execute such decree, to eject such tenant; and the Court may thereupon cause a notice to be served on such tenant, informing him that if he does not pay the amount due under the decree within thirty days from the receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Court may, on proof of the service of such notice, eject such tenant from the land in respect of which the amount is due, or may allow the tenant such further period not exceeding thirty days as to it seems fit and may on the expiry of such further period, if such amount be not paid, eject him.

66. Where, in answer to a suit for an arrear of rent, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period for which the arrear is claimed has been diminished or destroyed by drought, hail or other calamity beyond his control, the Court in its decree may make such deduction from the amount claimed by the landlord, and direct payment of the amount decreed in such instalments (if any), as it may think fit, and may order that such decree shall not be executed by ejectment of the tenant from his holding.

In making such decree the Court shall have regard to—

(a) the value of the produce of the holding for the whole agricultural year in which the arrear accrued; and

(b) the proportion which the amount of rent payable for such year by the tenant bears to such value.

If in any such suit it appears that the land-revenue of the village in which such holding is situate has been suspended or remitted on account of drought or other calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that, in the case of suspension, the produce of the holding has been diminished, and, in the case of remission, that such produce has been destroyed, by such calamity.

Bill, s. 10.

W. P.
ent Act,
149.

67. Whenever a decree is given for the ejectment of a tenant or the cancellation of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it thinks fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation within such time, or may make such other order in the case, as the Court thinks fit. If such damage be so repaired or compensation so paid, or order obeyed, the decree shall not be executed.

68. When a landlord wishes to eject, under section forty-five, clause (b), an ordinary tenant, or to enhance his rent without his consent, such landlord shall serve through the Civil Court a notice on such tenant, on or before the thirty-first day of December next preceding the agricultural year in which such landlord desires to take possession of the land, or in which the enhancement is to take effect.

69. When a Civil Court passes under clause (b) of section forty-five a decree for the ejectment of an ordinary tenant, it shall in its decree state the amount payable to the tenant as compensation under section forty-six, and such decree shall not be executed until the sum so payable has been deposited in Court by the landlord.

70. If an ordinary tenant has been ejected under clause (b) of section forty-five from his holding, and the landlord within one year from the date of such ejectment fails to use proper diligence in the execution of the work for which such holding was taken, the Court, on the application of such tenant and on his refunding the sum paid to him under section forty-six as compensation, or so much of it as the Court may direct, shall reinstate him in the holding.

71. When an ordinary tenant, on whom a notice of enhancement of rent has been served under section sixty-eight, refuses to agree to pay the enhanced rent, the landlord may institute a suit for ejectment in the Civil Court on or before the fifteenth day of March next after the date of such refusal.

Thereupon the Court shall fix a date for hearing the case, and shall issue a notice to the tenant, summoning him to appear on such date, and stating the yearly increase of rent asked by the landlord and the sum payable to the tenant as compensation under section forty-six, clause (a).

72. On the appearance of the parties on the date fixed, the Court shall require the tenant to agree, or refuse to agree, to pay the enhanced rent.

If he agrees to pay such rent, his agreement shall thereupon be recorded, and he shall be liable to pay the enhanced rent from the commencement of the agricultural year next following the date of such agreement.

If he refuses, the Court shall pass a decree for his ejectment on condition that within fifteen days from the date of the decree the landlord deposits in Court the sum payable to the tenant as compensation under section forty-six, clause (a).

73. If such sum is so deposited, the order of ejectment shall be made absolute and the sum deposited shall be paid to the tenant. If such sum is not so deposited, the decree shall become null and void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

74. The following rules shall be applicable in the case of every tenant ejected from a holding in accordance with the provisions of this Act—

(a) when the tenant has, previous to the date of his ejectment, sown or planted crops in any land comprised in such holding he shall be entitled, at the option of the landlord, either to retain possession of such land and to use it for the purpose of tending and gathering in such crops; or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing such land and sowing, planting and tending such crops;

(b) when the tenant has, previous to the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in such land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing such land:

Provided that no tenant shall be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after proceedings had been taken by the landlord for his ejectment, he has cultivated or prepared such land contrary to local usage.

75. When a landlord elects, under section seventy-four, clause (a), to allow a tenant to retain possession of any land for the purpose specified in that clause, such tenant shall pay to such landlord, for the use and occupation of such land during the period for which he is allowed to retain possession of the same, such rent as the Court may deem reasonable.

76. Notwithstanding the provisions of section sixty-one, in all suits for ejectment, the Court shall inquire into and determine all claims under this Act, by the landlord against such tenant, or by such tenant against the landlord,

Bill, s. 35.

77. When it appears to a Court making such inquiry that the amount payable under this Act by the landlord to the tenant exceeds the amount so payable by the tenant to the landlord, it shall, unless the landlord and tenant come to an arrangement regarding the payment of such excess sum, fix a time within which it must be paid into Court.

If such payment is made within the time fixed, the Court shall eject the tenant;

and if such payment is not so made within such time, it shall refuse to eject the tenant.

Bill, s. 30.

78. All decrees for ejectment under this Act shall take effect from the beginning of the agricultural year next following the date of the order or decree, and shall be made subject to the conditions specified in sections forty-nine and seventy-four.

Bill, s. 53.

79. If any landlord or tenant desires that the extent of any holding should be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of such holding at any specified time, should be recorded, he may apply to a Revenue-officer, and such officer shall thereupon make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, or shall record such evidence, as the case may be:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

CHAPTER V.

MISCELLANEOUS.

New:
44 & 45 Vic.,
cap. 49, s.
22.

80. Every provision contained in any lease or contract of tenancy or other contract, which provision is inconsistent with any of the provisions of this Act, or whereby a tenant agrees not to make, or to be ejected if he makes, improvements on his holding, or to forego any claim to compensation to which he is entitled hereunder, shall be void:

Provided that nothing in this section shall affect any agreement or lease whereby—

(a) waste-land is let for the first time, in so far as such agreement or lease fixes the rent of such waste-land for any period not exceeding the term of the current settlement;

(b) any tenant is secured in the enjoyment of rights greater than those given to tenants of his class under this Act.

Certain entries in record-of-rights to be void.

81. All entries in the record-of-rights of any village providing—

(a) that landlords shall be entitled to prevent tenants from making, or to eject them for making, improvements on their holdings, or to demand increased rent from them in respect of any such improvements; or

(b) that tenants ejected from their holdings shall not be entitled to compensation for improvements in cases in which they would, under this Act, be entitled to such compensation,

shall be void.

Cases in which ex-proprietors become occupancy-tenants of their sir.

82. Every person whose proprietary rights in land are, after this Act comes into force, transferred in any of the following cases:—

(a) when he sells such rights without expressly agreeing to transfer his right to cultivate sir-land contained in the land;

(b) when such rights in land are sold for an arrear of land-revenue;

(c) when such rights are sold in execution of any decree which does not expressly convey his rights in the sir-land contained in the land,

shall have the rights of an occupancy-tenant in the land cultivated by him as sir at the date of such transfer.

Rules by Chief Commissioner.

83. The Chief Commissioner may, from time to time, make rules, consistent with the provisions of this Act, for the guidance of all persons in matters connected with the enforcement thereof.

SCHEDULE.

(See section 2.)

ACTS REPEALED.

Number and year of Act.	Short title.
Act X of 1859	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.
Act XIV of 1863	To amend Act X of 1859.
Act XXII of 1872	To explain and amend Act X of 1859.

R. J. CROSTHWAITE,
Offy. Secy. to the Govt. of India.

5 f

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1882, and was referred to a Select Committee:—

No. 6 of 1882.

A Bill to provide for the grant of licenses to Pilots in British Burma and for investigating certain charges against them.

WHEREAS it is expedient to provide for the grant of licenses to pilots in British Burma, and for investigating certain charges against them; It is hereby enacted as follows:—

1. This Act may be called "The British Burma Pilots Act, 1882":

It extends to the territories for the time being administered by the Chief Commissioner of British Burma;

and it shall come into force at once.

2. In this Act—

"Port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1875, is for the time being in force.

Licensing of Pilots.

3. The Chief Commissioner may, from time to time, appoint competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and to make rules for the licensing of pilots.

- (a) for the conduct of such examinations and for the qualifications to be required;
- (b) for the grant to qualified persons of licenses to act as pilots; and
- (c) for the fees to be paid for such examinations and licenses.

4. No person shall act as a pilot at any port, unless he holds a license granted under section three, authorizing him to act as a pilot at such port.

5. Any person acting as a pilot in contravention of the provisions of section four shall be punished, for every time he so acts with fine which may extend to two hundred rupees.

Investigations into charges against Pilots.

6. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, by notification in the *British Burma Gazette*, make rules to regu-

late the conduct of pilots licensed hereunder in all matters connected with the performance of their duties as such pilots.

Any such rule may contain a provision that a pilot committing a breach of such rule shall be punished with the suspension or cancellation of his license, or with the change of his license from a higher to a lower grade.

7. If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed hereunder with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section six, he may direct a Court to be constituted, under this Act, at a port at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and shall then transmit a statement of such grounds to such Court and direct such Court to make an investigation into such charge.

The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate the powers conferred on him by this section to any person at any port.

All proceedings of any person in exercise of the powers so delegated shall be subject to the confirmation of the Chief Commissioner.

8. Every Court constituted under this Act shall consist of a President sitting with three assessors.

9. The President shall be such person as the Chief Commissioner, by notification in the *British Burma Gazette*, appoints in this behalf, either generally or for any specified case.

Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

10. One of the said assessors shall be a master of a sea-going vessel lying in the port at which the investigation is to be made: another shall be a merchant residing at such port: and the third shall be a pilot of not less than five years' service.

11. The assessor who is the master of a sea-going vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the President.

The other assessors shall be summoned by the President in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette*. If there are no such lists, or if it is impracticable to procure the attendance of two persons, one of whom is named in such list of merchants, and the other in such

Act VII of 1880, s. 68.

Draft s. 3. Cf. Act VII of 1880, s. 69.

Act VII of 1880, s. 70.

Draft s. 22. Act VII of 1880, s. 2.

Draft s. 5. Cf. I. M. S. Bill (No. 111), s. 141.

Draft s. 8.

Draft s. 9. Cf. Act VII of 1880, s. 13.

Draft s. 7. Cf. Act VII of 1880, s. 14.

Draft s. 9.

Draft s. 12. Cf. Act VII of 1880, s. 13.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 25, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART II.

Notifications by High Court, Comptroller General, &c.

GAZETTE OF INDIA.

NOTICE.

The 11th March 1882.

From the 8th April next, till further notice, Parts I, IV, and V of the *Gazette of India*, containing the Weather and Crop Report, be published at Simla. After the 1st April, all Notifications and other matter intended for publication in those Parts, should be addressed to the Officiating Publisher at that station.

Parts II and III and the Supplement will continue to be published in Calcutta.

From the 1st January 1882, Parts IV and V of the *Gazette of India*, containing the Acts and Bills of the Legislative Council, may be subscribed for separately from the other Parts of the *Gazette*. The annual subscription for the two Parts will be Rs. 5 per annum, payable in advance. When sent by post, Rs. 2-8 per annum additional will be charged for postage.

Complaints regarding non-receipt of any number of the *Gazette* should be forwarded within a week after the day on which it is due.

Applications for the supply of the *Gazette* on the *public service* should be addressed to the Home Department.

By an order of Government, all subscriptions must be paid *in advance*.

	Rs.	A.	P.
Subscription for <i>Gazette</i> and Supplement per annum	15	0	0
Postage	5	8	0
Subscription for Supplement only	6	0	0
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For a single copy of the <i>Gazette</i>	0	8	0
For a single copy of the Supplement	0	8	0
Postage on single copies varies according to weight.			

E. J. DEAN.

Publisher, Gazette of India.

NOTICE.

The Office of Superintendent of Government Printing having been removed to No. 166, Dhurumtollah Street, all communications intended for that Office should be sent to that address.

E. J. DEAN,

Supdt. of Govt. Printing, India.

NOTICE TO MARINERS.

No. 9 of 1882.

BAY OF BENGAL—CHITTAGONG COAST.

ENTRANCE TO THE CHITTAGONG OR KORNAFULI RIVER.

Changes in the river bar.

Notice is hereby given that considerable changes are reported to have taken place in the bar at the entrance to the Chittagong or Kornafuli river.

Mariners are cautioned not to attempt to enter the river without a pilot.

By direction of the Government of India,
A. DUNDAS TAYLOR, *Comdr. (late I.N.).*

Superintendent, Marine Survey of India.

Marine Survey Department,

Calcutta,

The 14th March 1882.

This Notice affects the following:—

BRITISH ADMIRALTY Charts, Nos. 84 and 859.

INDIAN MARINE SURVEY Charts, Nos. 126 and 115a. Also Taylor's Sailing Directory, Vol. I, page 484.

If this Notice is received on board-ship, the substance of it should be inserted on the Chart affected by it, and introduced into the Sailing Directions to which it relates.

SURVEY OF INDIA.

NOTIFICATIONS.

Calcutta, the 18th March 1882.

No. 267.—Mr. H. Niven, Lithographic Printer, is granted leave to Europe on medical certificate for twelve months, under Section 127, Chapter X, of the Civil Leave Code.

The 22nd March 1882.

No. 268.—Mr. L. Pocock, Surveyor, 4th Grade, is granted three months' privilege leave, under Section 138, Chapter X, of the Civil Leave Code, with effect from such date as his services can be spared from the Mysore Survey.

J. T. WALKER, *Lieut.-Genl., R.N.,*
Surveyor General of India.

AGENT, GOVERNOR GENERAL, FOR
CENTRAL INDIA.

NOTIFICATION.

Indore Residency, the 4th March 1882.

No. 456.—Captain J. Burne, 2nd Assistant Agent, Governor General, for Central India, held charge of the current duties of the Office of Agent, Governor General, for Central India, in addition to his own, from the 2nd to the 17th November 1881, inclusive, and from the 1st January to the 3rd February 1882, inclusive, during the absence of Sir Lepel Griffin, K.C.S.I., Agent, Governor General, on special duty at Agra and Calcutta.

By Order,
DONALD ROBERTSON,
1st Asst. Agent, Govr. Genl.,
for Central India.

AGENT, GOVERNOR GENERAL, FOR
CENTRAL INDIA, P. W. D.,
Railway Branch.

NOTIFICATIONS.

Indore, the 17th March 1882.

No. 1.—Mr. C. J. Ledger, Executive Engineer, Nerbudda Division, Bhopal State Railway, has been granted nineteen days' privilege leave, of which he availed himself on 16th January and returned to duty on the afternoon of 3rd February 1882.

No. 2.—Mr. E. J. Shadbolt, Assistant Engineer, 1st Grade, held charge of the office of Executive Engineer, Nerbudda Division, from 16th January to 3rd February 1882, during the absence of Mr. Ledger on privilege leave.

Establishment.

The 20th March 1882.

No. 4.—Mr. R. E. Nelson, Executive Engineer, 4th Grade, received charge of Indore Division from Mr. J. Knight on the afternoon of the 13th instant.

No. 5.—Mr. T. Knight, Executive Engineer, 2nd Grade, is appointed Personal Assistant to the Superintending Engineer, Central India, from the afternoon of the 13th instant, on which he made over charge of the Indore Division.

This cancels Notification No. 2, dated 16th ultimo, appointing Mr. T. Knight as Executive Engineer, Gwalior Division.

No. 6.—Mr. R. Ewing, Executive Engineer, 4th Grade, is appointed to officiate as Executive Engineer, Gwalior Division.

No. 7.—Mr. H. E. Grant, Assistant Engineer, 3rd Grade, is transferred to Mhow Division, but will continue to hold charge of Gwalior Division until relieved by Mr. Ewing.

By Order,
C. S. THOMASON, *Colonel, R.E.,*
Sery. to Agent, Govr. Genl.,
for Central India.

AGENT, GOVERNOR GENERAL, FOR
RAJPUTANA.

NOTIFICATIONS.

Mount Abu, the 16th March 1882.

No. 659 G.—This Office Notification No. 531 G., dated 3rd March 1882, granting Surgeon D. French Mullen, M.D., in medical charge of the Mewar Bhil Corps, thirty days' privilege leave, is hereby cancelled.

No. 679 G.—With reference to Foreign Department Notification No. 111 G. G., dated 27th January 1882, Lieutenant-Colonel P. W. Bannerman and Captain A. C. Talbot, respectively, made over and received charge of the office of Resident, Eastern Rajputana States, on the afternoon of the 28th February 1882.

By Order,
F. T. HEWSON,
for 1st Asst. Agent to the Govr. Genl.

CHIEF AND FINANCIAL COMMISSIONER,
AJMIR-MERWARA.

NOTIFICATION.

Mount Abu, the 18th March 1882.

No. 189.—The following rules already published in the *Gazette of India*, Part II, dated 18th June 1881, are again inserted for information, together with certain subsidiary rules in *italics* :—

I.—For the purposes of these rules stamps are divided into two classes—

Class 1.—Adhesive stamps sold to the public for use by them in the case of instrument mentioned in Section 10 of Act I of 1879.

Class 2.—All other stamps under Act I of 1879.

II.—Stamps in class 1 may be sold by any person, stamps in class 2 shall be sold by *ex-officio* and licensed vendors in accordance with these rules.

III.—The treasurer of each district and such ministerial officers at tahsils as may be authorized by the Assistant Commissioner shall be ex-officio vendors; such persons as may be licensed by the Assistant Commissioner or any other officer empowered by the Local Government to grant licenses shall be licensed vendors.

The Assistant Commissioner or other officer so authorized shall make such arrangements for the appointment of licensed vendors as will insure that intending purchasers shall only have to apply to the treasury when the stamp they require is one for which licensed vendors do not get discount.

The Assistant Commissioner, Ajmere, will appoint the Tahsildar at each sub-treasury in the interior of the district to be an ex-officio vendor of stamps; an officer shall also be appointed at Kekri as an ex-officio vendor of general stamps.

Licenses for the vend of general stamps shall be given only by the Assistant Commissioner of Ajmere, care being taken to guard against monopolies of vend.

The Assistant Commissioner of Merwara shall nominate persons to be licensed vendors in Merwara, but the Assistant Commissioner, Ajmere, shall grant the licenses; any difference of opinion between the Assistant Commissioners on this point shall be referred to the Commissioner of Ajmere, whose decision shall be final.

IV.—~~Licensed~~ vendors shall sell such stamps as they may be directed by the Local Government to sell. Licensed vendors shall sell such stamps as are indicated in their licenses. They should ordinarily be restricted to the sale of stamps of value not exceeding Rs. 10 each.

Ex-officio vendors shall supply the public and licensed vendors with stamps of either class mentioned in Rule I, and allow discount at the rates and under the conditions hereinafter prescribed for purchases made from Government.

The Collector is authorized to allow stamps of a higher denomination than Rs. 10 and not exceeding Rs. 25 to be sold by a licensed vendor at any place where, with reference to the requirements of the public, it may appear to him necessary.

No discount shall be given on purchases of stamps of class 2 when the stamp exceeds Rs. 50 in value, nor on stamps when less than the minimum quantity mentioned above is purchased at one time.

V.—Every license should be issued in the annexed form A, and renewed every year, and it may at any time be cancelled by the authority granting it.

VI.—Subject to Rule VIII every person who purchases from Government by payment of ready money stamps in class 1 shall receive the same at such discount, not exceeding the following rates, as may be prescribed by the Local Government:—

Stamps not exceeding in value 8 annas each	...	6½ per cent.
Stamps exceeding in value 8 annas each, but not exceeding in value Rs. 5 each	...	3½ per cent.
Stamps exceeding in value Rs. 5 each, but not exceeding in value Rs. 50 each	...	1½ per cent.

(A) When any instrument is to be written on an impressed sheet, if the amount of duty with which such instrument is chargeable does not exceed one hundred rupees, a single sheet shall be used, unless,—

where the application for the required stamp is made at a treasury, the officer in charge of such treasury, or

where such application is made to a stamp vendor, the vendor,

certifies that he is unable to furnish a single stamp of the required value.

(B) When the amount of duty chargeable in respect of any instrument exceeds one hundred rupees, or a Treasury Officer or stamp vendor has certified under clause (A) that he is unable to furnish a single stamp of the required value, the number of sheets used for indicating the payment of duty shall not exceed the number which the Treasury Officer or the stamp vendor certifies in either case to be the smallest number which he can furnish so as to make up the required amount.

(C) No certificate shall be made under clause (A) or clause (B) by a stamp vendor in any case in which the stamp duty required exceeds the highest value of the stamps which such vendor is authorized to sell.

When an instrument has to be written on more than one impressed sheet owing to a sheet of proper value not being available and when more than one sheet is therefore furnished under the certificate of the Treasury Officer or stamp vendor as ordered in Rule VI, the instrument must be so written that each of such sheets shall contain a portion thereof.

The following rates of discount are prescribed as payable to any person purchasing from Government by payment of ready money.

Stamps in class 1 subject to the conditions attached to Rule VIII:—

	Per cent.
Stamps not exceeding in value 8 annas each	Rs. 6 4 0
Stamps exceeding in value 8 annas each, but not exceeding in value Rs. 5 each	2 0
Stamps exceeding in value Rs. 5 each, but not exceeding in value Rs. 50 each	1 9 0

VII.—Subject to Rule VIII every licensed vendor who purchases from Government by payment of ready money stamps of class 2 shall receive the stamps at such discount not exceeding the following:—

Vendors licensed at places where stamps are sold by Government	3 per cent.
Vendors licensed at other places	5 "

The following rates of discount are prescribed by the Chief Commissioner as payable to any licensed vendor who purchases from Government by payment of ready money, provided an aggregate value of not less than Rs. 10 is purchased at one time.

	Per cent.
Vendors licensed at places where stamps are sold by Government	Rs. 3 2 0
Vendors licensed at other places	6 4 0

VIII.—No discount shall be given on account of the purchases of any stamp exceeding Rs. 50 in value, nor on any stamp applied on material furnished by the purchaser himself, nor if there be purchased at one time less than the quantity which may be prescribed by the Local Government in respect of any class or value of stamps.

When a licensed vendor is supplied with stamps without payment in ready money, the rate of discount shall be half the rates given in Rule VI.

Stamps exceeding Rs. 5 shall not be supplied without payment.

Class 2 stamps—

At the madder station ... Rs. 2 0 0

Elsewhere „ 3 0 0

In each case when stamps are supplied without payment, the sanction of the Assistant Commissioner shall be obtained by the Treasury Officer and security of double the value of stamps so given shall be taken from the licensed vendor.

IX.—The Local Government may authorize licensed vendors to be supplied with stamps of either class without requiring payment in ready money. Such licensed vendors may receive commission on these stamps sold by them at a rate to be prescribed by the Local Government not exceeding 2 per cent. In this case sufficient security shall be taken from the licensed vendors for the payment of any sum due by them to Government.

X.—Every licensed vendor shall at all times have affixed, in a conspicuous position outside the place of sale, a sign-board bearing the name of the vendor with the words “licensed vendor of stamps” in English and in the vernacular language of the district. He shall also have, in the place of vend, the Acts of the Legislature and their Schedules referring to the stamps sold by him, together with these rules in English and vernacular, placed so that they can readily be seen and read by purchasers.

XI.—Every ex-officio or licensed vendor shall write on the back of every stamp of class 2 which he sells a serial number, the date of sale, the name and residence of the purchaser, and the value of the stamp in words as well as figures. To this endorsement his own signature shall be attached. At the same time he shall make corresponding entries in a register to be kept by him in such form as the Local Government may prescribe. No such vendor shall knowingly make a false endorsement on the stamp sold, or a false entry in his register.

Every ex-officio or licensed vendor shall keep a register in the following form which shall be written up daily :—

REGISTER OF DAILY SALES OF STAMPS.

Date of sale.	Description of stamps.	Serial No. of stamp.	Value of stamp in words.	Name of purchaser. Father's name.	Residence of purchaser.	Purpose for which required.	Remarks.

The Treasury Officer will satisfy himself that this register is properly kept up by each licensed or ex-officio vendor.

XII.—Every licensed vendor shall, without delay, deliver any stamp which he has in his possession for sale on demand by any person tendering the value in any currency which would be accepted on behalf of Government by the Assistant Commissioner of the district.

A licensed vendor shall not demand or accept for any stamp any consideration exceeding the value of such stamp.

XIII.—No vendor shall sell any stamps the use of which has been ordered by competent authority to be discontinued.

XIV.—Every vendor shall keep and render such accounts as may be prescribed by the Local Government, and shall allow the Assistant Commissioner or any officer duly authorized by such Assistant Commissioner or by the Local Government at any time to inspect the accounts and register which he is required to keep under Rule XI, and to examine the store of stamps in his possession.

XV.—Every vendor shall, at any time on the demand of the Assistant Commissioner or other officer duly authorized by the Local Government, deliver up all stamps of class 2 remaining in his possession, and if such stamps have been paid for, shall receive back the value thereof, less any discount which may have been allowed.

The Assistant Commissioners of Ajmere and Mirwar, Cantonment Magistrate, Nusseerabad, and Deputy Magistrate, Kekri, are authorized to call on any vendor to deliver up stamps of class 2.

FORM A.

License for vend of stamps under Act I of 1879
for the year _____ to _____
son of _____, resident of _____.

You are hereby authorized, agreeably to the provisions of Section _____, Act _____ of 18 _____, to sell general stamps under the conditions herein set forth.

1. Stamped papers and adhesive stamps of value not exceeding Rs. _____ each that you may obtain from a treasury, shall alone be sold.

2. You will note on the back of every impressed bi-color stamp you sell, the serial number, date of sale, name and residence of the purchaser, and the value of the stamp in words as well as figures, and attach your signature to this endorsement. These particulars you will also note in your sale register to be kept in such form as may be from time to time prescribed.

3. You shall not knowingly make a false endorsement on a stamp sold, or a false entry in your register.

4. You are required to deliver any stamp in your possession for sale that may be demanded on tender of its value in any currency which would be accepted on behalf of Government by the Collector of the District.

5. You shall not sell any stamps that may be declared obsolete.

6. You shall not demand or accept for any stamp other than the actual value denoted thereon.

7. You shall at all times have affixed in a conspicuous position outside the place of sale, a sign-board bearing your name with the words "licensed vendor of stamps" in English and in the vernacular language of the district. You shall also have in the place of vend the Acts of the Legislature and their Schedules referring to the stamps sold by you, together with the rules for regulating the sale of general stamps framed under Section of the General Stamp Act, in English and in the said vernacular, placed so that they can be readily seen and read by purchasers.

8. You shall keep and render such accounts as may be prescribed by the Local Government, and shall allow the Collector of the District or any officer duly authorized by such Collector or by the Local Government at any time to inspect the accounts and register which you are required to keep under Rule XI, and to examine the store of stamps in your possession.

9. You shall be liable, for any infractions of these conditions, to the penalties prescribed in Section , Act of 18 .

Assistant Commissioner.

By Order,

F. T. HEWSON,

for 1st Asst. to the Chief & Financial Commr.

MILITARY DEPARTMENT— Military Works.

NOTIFICATIONS.

Presidency & Oudh Command.

Lucknow, the 20th March 1882.

No. 4.—With reference to Inspector General of Military Works' Notification No. 4, dated the 2nd March 1882, Lieutenant T. Digby, R.E., Assistant Engineer, 1st Grade, reported his arrival at Lucknow on the forenoon of the 2nd March 1882, and is posted to the Allahabad Division, Military Works, which he joined on the forenoon of the 4th March 1882.

No. 5.—This Office Notification No. 2, dated the 25th February 1882, transferring 1st Grade Assistant Engineer Lieutenant H. J. W. Jerome, R.E., from Lucknow to Allahabad Division, Military Works, is hereby cancelled.

The 22nd March 1882.

No. 6.—Lieutenant E. C. Stanton, R.E., Assistant Engineer, 2nd Grade, attached to Saugor Division, Military Works, is transferred to Lucknow Division, Military Works.

No. 7.—Lieutenant G. M. Porter, R.E., Assistant Engineer, 1st Grade, attached to the Lucknow Division, Military Works, is transferred to the Saugor Division, Military Works.

No. 8.—Lieutenant H. J. W. Jerome, R.E., Assistant Engineer, 1st Grade, is transferred from Lucknow Division, Military Works, and posted to the Head-quarters Office of the Command, to be Assistant to Superintending Engineer.

H. McV. CRICHTON, Major, R.E.,

Supdg. Engr., Presdy. & Oudh Command,
Military Works.

ARMY CLOTHING DEPARTMENT.

NOTICE.

Alipur, the 22nd March 1882.

The services of a fully qualified master shoemaker are required at the Army Clothing Agency, Alipur. Applications accompanied by attested copies of testimonials (which will not be returned) and stating salary expected should be addressed to the Officiating Superintendent of Army Clothing, Alipur.

W. H. MACKESY, Lieut.-Col.,
Offg. Supdt. and Agent for Army Clothing.

Report of a Deserter from the 2nd Battalion, Royal Warwickshire Regiment of Foot, dated at Fort William, Calcutta, this 20th day of March 1882.

Number, Rank, and Name,— No. 708, Private Henry Haynes.	At what Place Enlisted,— Birmingham.
Age,—26 years 4 months.	Parish and County in which Born,—Stratford on Avon, Warwick.
Size,—5 feet 7½ inches.	Marks,—
Colour of—	Trade,—Chandelier-maker.
Complexion, fresh; Hair, brown; Eyes, grey.	Coat or Jacket,—
Date of Desertion,—15th March 1882.	Waistcoat,— ... } Regi- Breeches or ... } mental Trowsers,— ... } white clothing.
Place of Desertion,—Fort William, Calcutta.	REMARKS,—
Date of Enlistment,—12th December 1876.	Under 6 years' service.

L. B. HOLE, Lieut.-Colonel,
Comdg. 2nd Battn., Rl. Warwickshire Regt. of Foot.

Report of a Deserter from the 2nd Battalion, Royal Warwickshire Regiment of Foot, dated at Fort William, Calcutta, this 20th day of March 1882.

Number, Rank, and Name,— No. 1882, Private Fred. Allen.	At what Place Enlisted,— Warwick.
Age,—27 years 11 months.	Parish and County in which Born,—St. Mary's, Staf- ford, Stafford.
Size,—5 feet 10½ inches.	Marks,—Scar on back of neck and on each hip.
Colour of—	Trade,—Furnace-man.
Complexion, fresh; Hair, brown; Eyes, grey.	Coat or Jacket,—
Date of Desertion,—16th March 1882.	Waistcoat,— ... } Regi- Breeches or ... } mental Trowsers,— ... } white clothing.
Place of Desertion,—Fort William, Calcutta.	REMARKS,—
Date of Enlistment,—16th November 1878.	Under 4 years' service.

L. B. HOLE, Lieut.-Colonel,
Comdg. 2nd Battn., Rl. Warwickshire Regt. of Foot.

Weekly Statement of Silver tendered, of Certificates issued, and Silver Balance in the Mint.

DATE.	SILVER TENDERED, ESTIMATED VALUE.	CERTIFICATES ISSUED OF		BALANCE OF BULLION		
		General Treasury.	Currency Department.	Under Assay.	Assayed.	Held on account of the Currency Department.
1882	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Mar. 13	2,00,000	1,28,801	88	2,00,205	22,54,760	22,74,028
" 14	2,80,010	1,33,048	90,136	4,01,870	61,31,830	21,82,510
" 15	...	1,51,733	...	4,01,870	6,20,639	20,1,000
" 16	...	1,51,192	...	4,01,870	58,24,401	18,07,858
" 17	...	1,01,653	...	4,01,870	57,05,049	17,04,003
" 18	...	73,011	...	4,01,870	56,00,363	16,28,000

CALCUTTA MINT.
The 20th March 1882.

J. F. TENNANT, Col., R.E.,
Mint Master.

CONTROLLER GENERAL'S OFFICE,

J. WESTLAND,
Controller General.

STATEMENT of Government Promissory Notes enforced for payment of Interest in London, under deduction of amount re-transferred to India, and outstanding in the Books of the Bank of Bengal on the 15th March 1882.

PARTICULARS.	4 PER CENT. LOANS						4½ PER CENT. LOANS				TRANSFER LOAN OF 1879, SEVEN SHILLINGS PER CENT. PORTION.	5 PER CENT. DEBT UNDER LOAN 1856-57.	GRAND TOTAL.	
	OF 1824-25. 1825-26. 1826-27.	OF 1827-28. 1828-29. 1829-30.	OF 1830-31. 1831-32. 1832-33.	OF 1833-34. 1834-35. 1835-36.	OF 1836-37. 1837-38. 1838-39.	Reduced 4 per cent. of Loan of 1879.	Transfer of 1855.	Reduced 4 per cent. of Loan of 1879.	OF 1870.	OF 1873. CENT. POR- TION.				TOTAL.
Balance of 28th February 1882	38,506	3,413	13,90,683	31,64,650	2,32,97,900	1,03,78,400	2,83,64,637	2,91,11,500	73,500	9,67,42,048	48,04,500	1,07,46,300	11,49,57,100	21,52,53,949
4½ per cent of 1878 Stock transferred to 4½ per cent. of 1879 Stock in London	...	...	...	...	...	...	...	...	...	...	...	...	5,20,200	5,20,200
4½ PER CENT.	...	...	...	1,000	10,100	...	16,700	...	...	...	...	...	...	...
Amount enforced at Madras between 1st and 15th March 1882	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Amount enforced at Bombay between 1st and 15th March 1882	...	...	...	...	...	...	...	...	...	1,000	...	...	6,000	6,000
Amount enforced at Calcutta between 1st and 15th March 1882	...	...	...	22,500	2,09,200	16,400	2,07,100	1,56,900	...	...	...	...	57,600	6,70,600
Deduct—	38,506	3,413	13,90,683	32,00,100	2,35,07,100	1,03,94,900	2,86,02,437	2,91,08,300	73,500	9,73,77,819	48,04,500	1,07,59,100	11,56,70,900	21,64,73,549
Amount written off in the London Registers	...	...	...	51,670	1,59,700	37,000	2,99,000	1,00,400	...	6,76,600	...	5,30,300	5,92,200	12,63,800
Balance on 15th March 1882	38,506	3,413	13,90,683	31,57,650	2,33,18,400	1,03,57,900	2,83,63,437	2,90,07,900	73,500	9,67,01,249	48,04,500	1,07,23,000	11,49,68,700	21,52,13,749

NOTE.—From 9th June 1867 to 10th Jan. 1882, enforced from India 4,491 lakhs; re-transferred from London, 3,702 lakhs.

16th Jan. 1882 to 31st "	29	"	"	"	"	"	"	"	"	"	"	"	"	"
1st Feb. " to 15th Feb. "	11	"	"	"	"	"	"	"	"	"	"	"	"	"
16th " " to 28th "	25	"	"	"	"	"	"	"	"	"	"	"	"	"
1st Mar. " to 15th Mar. "	12	"	"	"	"	"	"	"	"	"	"	"	"	"
	4,538 lakhs.													
	3,786 "													
	402 lakhs.													

Balance against India

PUBLIC DEBT OFFICE,
BANK OF BENGAL;
Calcutta, the 17th March 1882.

W. D. CRUICKSHANK,
Offn. Secretary and Treasurer.

H. S. GROVES,
Assistant Accountant General,
in charge of Paper Currency Dept.,
for Commissioner.

GOVERNMENT CINCHONA FEBBRIFUGE.

This preparation is an efficient substitute for Quinine and can be purchased by Government officers for public and charitable purposes, and by any one taking *twenty pounds* at a time, from the Superintendent, Botanical Garden, Calcutta, *for cash only*, at the following rates:—per four ounce tin, *Rs. 4-8*; per eight ounce tin, *Rs. 8-8*; per pound tin, *Rs. 16-8*. The general public can be supplied by the Superintendent, Botanical Garden, *for cash only*, at the under-noted rates:—per four ounce tin *Rs. 5-8*; per eight ounce tin *Rs. 10-8*; per pound tin, *Rs. 20*. This medicine is also sold by the principal European and Native druggists in Calcutta. Postage 8 annas per four and eight ounce tins, and 12 annas per pound tin, in addition to the foregoing rates.

گورنمنٹ سنکونا فبري فيوج

بہہ دوا کوئیٹاٹھن کا خوب قائم مقام ہی اور کلکتہ کے بوٹانکل گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے ہر ایک ملازم سرکاری واسطے سرکاری کام اور خیرات کے اور میوے ونکے جو کوئی ایک مشیت بیس پونڈ خرید لینے سے بقیہ نقد حسب نرخ ذیل خرید کر سکتے ہیں یعنی نرخ چار اونس کے تین کا چار روپیہ آٹھ آنہ ; آٹھ اونس کے تین کا آٹھ روپیہ آٹھ آنہ ; ایک پونڈ کے تین کا سولہ روپیہ آٹھ آنہ

اور عوام الناس بوٹانکل گارڈن یعنی کمپنی باغ کے سپرنٹنڈنٹ صاحب سے بقیہ نقد حسب نرخ ذیل خرید کر سکتے ہیں یعنی نرخ چار اونس کے تین کا پانچ روپیہ آٹھ آنہ ; آٹھ اونس کے تین کا دس روپیہ آٹھ آنہ ; ایک پونڈ کے تین کا بیس روپیہ

بہہ دوا کلکتہ کے بڑے بڑے ولایتی اور دیسی دواخانہ میں بکتی ہی ماسیوے قیمت مذکورہ بالا کے محصول ۱۱ کا چار اور آٹھ اونس کے تین کا آٹھ آنہ ; اور ایک پونڈ کے تین کا بارہ آنہ

Meteorological Publications for Sale.

The following publications of the Meteorological Office of the Government of India are on sale and can be procured at the Meteorological Office, No. 4, Middleton Row, or either at Messrs. Thacker, Spink & Co., or at Messrs. Brown & Co., at the prices noted against them:—

Report on the Meteorology of India, in 1875, 4to., 89 pages text, 297 pages tables, 3 charts ...	Rs. A. P.	8 0 0
Report on the Meteorology of India, in 1876, 4to., 97 pages text, 340 pages tables, 3 charts ...		8 0 0
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Rainfall Chart of India, showing the average annual distribution of rainfall (in colors) ...		1 0 0
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HENRY F. BLANFORD,
Meteorological Reporter
to Government of India.

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THE BENGAL LAW REPORTS.

A few sets of the Bengal Law Reports (Volumes 1 to 15) are available at Messrs. Thacker, Spink & Co., Calcutta, at Rs. 375 a set.

Charts, &c., issued at the Marine Survey Department, Calcutta, by order of the Government of India, and sold at the Office of the Marine Survey Department, 4-4 London's Buildings, Hastings Street, Calcutta, where Admiralty Charts can also be obtained.

All Charts are corrected up to the date of issue.

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Indian Ocean—Curves of equal magnetic variation. *Annas 8.*
Indian Ocean, Suez to Penang, including Zanzibar and Madagascar (Engraved). Physical and track chart. *Rs. 1.*
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Table of Natural Scales, 1877. *Annas 4.*

Catalogue of Charts, Maps, Plans, &c., in the Marine Survey Department, Calcutta. *Annas 8.*

Catalogue of Original and other documents deposited in the Marine Survey Department, 1881. *Not for sale.*

Hydrographic Notices—

- No. 1. Rangoon River. *Annas 4.*
- " 2. Cancelled; superseded by Notice No. 8. *Annas 4.*
- " 3. Cancelled; superseded by Notice No. 18. *Annas 4.*
- " 4. Cancelled; superseded by Notice No. 23. *Annas 4.*
- " 5. Kyauk Phyou Harbour. *Annas 4.*
- " 6. Salween (Maulmain) River. *Annas 4.*
- " 7. Approaches to Point de Galle Harbour. *Annas 4.*
- " 8. Mergui Archipelago. Pages 7 to 10 of this Notice superseded by Notice No. 18. *Annas 4.*
- " 9. Indus Banks and Kurrachee. *Annas 4.*
- " 10. Pamban (Paumben) Pass. *Annas 4.*
- " 11. Andaman Islands. *Annas 4.*
- " 12. Jiddah Harbour, Red Sea. *Annas 4.*
- " 13. Red Sea. Navigation, inshore Passages, 1878. *Annas 4.*
- " 14. Red Sea, 1878. *Annas 4.*
- " 15. South Indian Ocean, Seychelle, Farquhar Islands, and Madagascar. *Annas 4.*
- " 16. Torres Strait and New Guinea, South-east Coast. *Annas 4.*
- " 17. India, West Coast, Ratnagiri, Rajapur Bay, and Vizindurg. *Annas 4.*
- " 18. Coast of Siam, including Junkseylon and adjacent islands. *Annas 4.*

- No. 19. Africa, East Coast, Pemba Island and adjacent Coast. *Annas 4.*
 „ 20. India, West Coast, the coast from Kundari Island to Chaul, and the harbours of Dabhol and Jaygad. *Annas 4.*
 „ 21. Arabian Coast, Rás Matbakh, 1880. *Annas 4.*
 „ 22. Red Sea. Notes from various sources, 1880. *Annas 4.*
 „ 23. Coast of Orissa False Point Harbour and Approaches. *Annas 4.*
 „ 24. India, West Coast, Harbours of Karwar and Bankot. *Annas 4.*

Notices to Mariners.

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Notices to Mariners issued during the year 1875—

- No. 1. Fixed Light on Green Island, Hong Kong, China.
 „ 2. Malwan Rock, Malwan.
 „ 3. Fixed white Light at Dwarka, Kattywar.
 „ 4. Mooram Shulli Tivo Island, and Devil's Point, Gulf of Mannar.
 „ 5. (1) Fixed Light at Vizagapatam.
 (2) Coral Shoal of Caltura, Ceylon.
 (3) Rock off Barbervu Island.
 „ 6. Foundering of the Buoy Vessel *Mata Mata*, Rangoon.
 „ 7. (1) Revolving Light near Acheen Head, Malacca Strait.
 (2) Auxiliary Light to above.

Notices to Mariners issued during the year 1876—

- No. 1. Temporary discontinuance of Hope Island Light during repairs to Light-house column, Coromandel Coast.
 „ 2. Exhibition of Hope Island Light, Coromandel Coast.
 „ 3. Prohibited anchorage near the British Indian Submarine Telegraph Cable, Madras.
 „ 4. (1) Pulo Brasse auxiliary Light, Malacca Strait.
 (2) Island between Pulo Nias and Sumatra.
 „ 5. Vessels trading to Réunion, Indian Ocean.
 „ 6. Replacement of the Buoy on the western edge of Dolphin Shoal, Chittagong Coast.
 „ 7. China Baker Light, Matuban Gulf.
 (2) Intended exhibition of Light on the Oyster Reef, Akyab.
 „ 8. Fixed white Light at Verawal.
 „ 9. Buoyage of Kyauk Phyu, British Burma.
 „ 10. Fixed white Light at Bet or Beyt (Gulf of Cutch) Kattywar.
 „ 11. Fixed white Light at Porbandar, Kattywar.
 „ 12. (1) Displacement of the Buoy in Narakel Roadstead, Cochin.
 (2) Buoy marking the Smooth-water anchorage to the southward of Alpeer (Aulapalay), Travancore.
 „ 13. (1) Intended Light on Pulo Pisang, Malacca Strait.
 (2) Sunken reef in Siberoot Strait, Sumatra, West Coast.
 „ 14. Deposit of stone mound at the end of the breakwater Colombo, Ceylon.
 „ 15. Period of exhibition of the blue Light during the South-west monsoon, from the Eastern Channel Light-vessel at the entrance to River Hooghly.
 „ 16. Rock near west end of Pulo Brasse.
 „ 17. (1) Beacon on two fathom patch off Batticaloa Road, Ceylon.
 (2) Suspension of Light at Vizagapatam.
 „ 18. Directions for Kurrachee Harbour.
 „ 19. Beacon on two fathom patch off Batticaloa Road, Ceylon.
 „ 20. Fixed Light at Calingapatam Point, Coromandel Coast.

Notices to Mariners issued during the year 1877—

- No. 1. Alteration in Manora Point Light, Kurrachee.
 „ 2. Dangers at Goa and Marmagao Roadstead.
 „ 3. Existence of rocky patches, Beypore.
 „ 4. Pooree Port limits, Orissa Coast.
 „ 5. Extension of the Hajamri Mouth of the River Indus.
 „ 6. Red Lights at Port Victoria, Mahé, Seychelles.
 „ 7. Light at Port Berberah, Gulf of Aden.
 „ 8. Rock off Hingie Island, Bassein River.
 „ 9. Rock off Pegu Coast.
 „ 10. Coral Patch near Sultan Shoal, Singapore Strait.
 „ 11. "Intermediate" Light-ship, entrance to River Hooghly.
 „ 12. Position of Cochin Light-house.
 „ 13. Position of Raleigh Rock, and additional beacons Bombay.
 „ 14. Buoy, marking Gindurah Rock, Galle.
 „ 15. Alteration in Manora Point Light, Kurrachee; and discovery of a bank near Towak Island, Red Sea.
 „ 16. Dangerous rocks in Forrest Strait, Mergui Archipelago, and Richelleu Rock off Kopah Inlet.
 „ 17. Alteration in position of "Intermediate" Light-ship, entrance to River Hooghly.

- No. 18. Destruction of the Krishna Shoal Light-house.
 „ 19. Correct position of Santipilly Light-house.
 „ 20. Anchorage Buoys in Madras Roadstead.
 „ 21. Light-vessel near Krishna Shoal, Burma.
 „ 22. Additional information, Krishna Shoal Light-vessel and Light at Pooree.
 „ 23. Alteration of position of Chittagong Lights.
 „ 24. Night Signals shown by British Pilot Vessels in the English Channel.

Notices to Mariners issued during the year 1878—

- No. 1. Position of Middle Ground, Bombay.
 „ 2. Error in position of Krishna Shoal Light-vessel.
 „ 3. New Lights in Sunda Strait, &c.
 „ 4. Corrected position of Krishna Shoal Light-vessel.
 „ 5. Alteration of colour of Chittagong beacons, and intended alteration in Dolphin Rock Light, Bombay.
 „ 6. Alteration of Malwan Light.
 „ 7. Kintoan Light-vessel, Yang-tee-Kiang.
 „ 8. Burgess Rock off Hingie Island, Bassein River, Burma.
 „ 9. Fairway Buoy at Falac Point, Orissa.
 „ 10. (1) Intended Light and Fog Signal on Little Basses Rocks, Ceylon.
 (2) Intended alteration in Great Basses Rocks Fog Signal.
 „ 11. Corrected positions of Zebayir Islands, Jebel Zukur and the Haniish Islands, Red Sea.
 „ 12. Fog Signals and distinguishing marks for Light-vessels, River Hooghly.
 „ 13. Exhibition of Light on Little Basses Rocks, Ceylon.
 „ 14. Beacon on Chaul Kadu Rock, Bombay.
 „ 15. Shoal near Tumb Island (Jasirat Taub), Persian Gulf.
 „ 16. Light at Batticaloa, Ceylon.
 „ 17. Upper Gaspar Light-vessel, entrance to river Hooghly.
 „ 18. Red Lights on North Groyne of Harbour Works, Madras.
 „ 19. Reported shoal, N. N. E. of Bahrain, Persian Gulf.
 „ 20. Alteration of colour of Light at Klang Strait, Strait of Malacca.
 „ 21. Additional information concerning the reported shoal, N. N. E. of Bahrain.
 „ 22. Deposit of stone, eastward of Harbour Works, Madras.
 „ 23. Reported Shoal, North-West of Choduba Island.
 „ 24. Exhibition of blue Lights and Maroons at Krishna Shoal Light-vessel.
 „ 25. Deposit of stone, eastward of Harbour Works, Madras (additional information).
 „ 26. Vessels prohibited from anchoring near the Sub-marine Telegraph Cable between Diamond Island and the mainland.
 „ 27. Intended exhibition of a revolving Light at Vakalapudi, in the Godavery District.

Notices to Mariners issued during the year 1879—

- No. 1. Permanent moorings for Eastern Channel Light-vessel, entrance to Hooghly River.
 „ 2. Sunken danger in Mergui Archipelago.
 „ 3. Revolving Light at Vakalapudi in the Godavery District.
 „ 4. Intended alteration in False Point Light.
 „ 5. Shifting of the entrances to Honore (Honawar) and Mangalore, on the Malabar Coast.
 „ 6. Fixed Light at Roji (Nowa Nugga) in the Gulf of Cutch.
 „ 7. Fixed Light at the entrance to Toona Creek in the Gulf of Cutch.
 „ 8. Fixed Light at Gaspnath Point in the Gulf of Cambay.
 „ 9. Wreck-marking vessels.
 „ 10. The alteration in the position and improvement of Pooree Port Light.
 „ 11. Shoal coral ground in Strait of Bauka.
 „ 12. Delagoa Bay. Removal of Cockburn Light-vessel in bad weather.
 „ 13. (1) Alteration in position of Beacons and Leading Lights—Burnett River Entrance, Australia.
 (2) Fixed Light on Flat-top Islet—Pioneer River—Rocky Islets.
 (3) Revolving Light on Low Isles—Trinity Bay.
 (4) Leading Lights at Cook Town—Endeavour River Entrance—Cook Harbour.
 „ 14. Sunken dangers between Alguada Reefs and Diamond Island—Bay of Bengal.
 „ 15. Flashing white Light on Paysegur Point—New Zealand.
 „ 16. Dangerous rocks, N. N. W. and S. E. of the southernmost of the Brothers Islands—Andaman Islands.
 „ 17. Australia—South Coast—Gulf of St. Vincent.
 (1) Prohibited anchorage near Telegraph Cable, Port Phillip.
 (2) Buoys marking battery practice range at William's Town.
 (3) Fixed and Flashing Light on North Reef.

- No. 18. Longitude of the Time Ball, Calcutta, and of Sango Light-house, River Hooghly.
- „ 19. (1) Discontinuance of additional Light at Fourth Point—Sunda Strait—Java.
(2) Shoal in the Fairway to Batavia Road.
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- „ 20. (1) Shoal ground westward of Durnford Point—South Coast of Africa.
(2) Distinguishing features marking the entrance to Tugela River.
(3) Distinguishing entrance to Umhloti River.
- „ 21. Buoys off Karwar Harbour (Sadashigar).
- „ 22. (1) Alterations in Lights at St. Paul and St. Denis, Réunion Island.
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- „ 23. Buoys off Karwar Harbour (Sadashigar).
- „ 24. Buoys and Beacons, Zanzibar Harbour.
- „ 25. Alteration of False Point Light—Coast of Orissa.
- „ 26. Red Buoy marking smooth-water anchorage off Porcaud, Alleppey.
- „ 27. Change in the Anchorage Limits of the Port of Madras.
- „ 28. Intended discontinuance of Light at El-weg (Sherm Wej-h), Red Sea.
- „ 29. Interval of intended exhibition of blue Lights and Rockets at False Point Light-house.
- „ 30. Replacing of the buoys at the entrance to Cochin Harbour and extinguishing of Narrakel Light.
- „ 31. Range of visibility of the Light exhibited from Krishna Shoal Light-vessel.
- „ 32. Light at Batticaloa.
- „ 33. Black buoys laid down in Calicut Roadstead to mark the limits of foul ground.
- „ 34. Light at Batticaloa.
- „ 35. Replacing of the buoys off Karwar Harbour (Sadashigar).
- „ 36. Telegraph buoy, south of Aden.
- „ 37. Black buoy off Point Gordeware (Godavery).
- „ 38. Light at Batticaloa.
- „ 39. Exhibition of a leading Light in Suez Bay.
- „ 40. Madras Semaphore.
- „ 41. Black buoy off Point Gordeware (Godavery).
- „ 42. Madras Semaphore.
- „ 43. Buoys at Calicut.

Notices to Mariners issued during the year 1880—

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- „ 2. Discontinuance of Maroon Lights at Krishna Shoal Light-vessel.
- „ 3. Exhibition of the new fixed Light at False Point.
- „ 4. Extension of the period of exhibition of the "Intermediate" Light at the entrance to the Hooghly River.
- „ 5. Alterations in the position and visibility of the Light exhibited from Port Canning, Singapore.
- „ 6. Alteration of position and elevation of the red Light at Cannanore.
- „ 7. Discontinuance of the exhibition of Maroons from the Light-vessels of the Hooghly River.
- „ 8. Fixed Light at Tolleshwar, Dadhol or Anjauvel.
- „ 9. Lights at Port Ibrahim, Suoz.
- „ 10. Changes in the buoyage of the port, Madras.
- „ 11. Intended alteration of Kenery (Kundari) Island Light.
- „ 12. Flashing Light on Flat Cape, Sunda Strait.
- „ 13. Destruction of First Point Light house, Java.
- „ 14. Harbour Light at Beliling, Baly Island.
- „ 15. Position of Gwalia Reef, Carimuta Strait.
- „ 16. Position of Parkin Rock, Haniish Islands, Red Sea.
- „ 17. Shoal south-west of Barren Islands, west coast of Madagascar.
- „ 18. Intended alteration in Light apparatus at Calicut.
- „ 19. Lights at Port Ibrahim, Suez (additional information).
- „ 20. Intermittent flashing Light on Pulo Undau, Malacca Strait.

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- „ 2. Rules for regulating the entry and departure of vessels using Madras Harbour.
- „ 3. Re-exhibition of Light on First Point, Java.
- „ 4. Light at Tagal, Java.
- „ 5. Beacon on Borongo Island, Akyab.
- „ 6. Discontinuance of Arneghon light and intended change of colour of Pulicat Light.
- „ 7. Tidal semaphore at entrance to Chittagong River.
- „ 8. Alteration of colour of Light at Ratnagiri.
- „ 9. Red Light on Colombo breakwater.
- „ 10. Red buoy off Godavery Point, Cocanada.
- „ 11. Alterations to Lights at Paumben and Tellicherry.
- „ 12. Particulars of Light at First Point, Java.
- „ 13. Alteration in character of Light at Flat Cape, Sumatra.
- „ 14. Removal of north buoy, Madras Harbour.
- „ 15. Range of visibility of the light at Paumben.

- No. 16. Beacons for clearing the south-west Prong, Bombay Harbour.

- „ 17. Lights at Zanzibar.
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- „ 21. Fixed Light at Pulicat.
- „ 22. Fixed Light at Ratnagiri.
- „ 23. Occasional observation of light at False Point.
- „ 24. Breaking adrift of Karwar rock buoy, Karwar or Sadashivgad.
- „ 25. Date of exhibition of permanent white Light at Calicut.
- „ 26. Alteration of colour of Katubdea Light-house, Chittagong coast.
- „ 27. Exhibition of red and green Lights at Pondicherry.
- „ 28. New beacon on Kal-ah-kebirah Shoal, Gulf of Suoz.
- „ 29. Reported coral reef off Batticaloa.
- „ 30. Revised rules for vessels using Madras Harbour.
- „ 31. Wreck buoy to mark wreck of Mariana, Madras Coast.
- „ 32. Removal of the Red Buoy off the head of the South Harbour Pier, Madras.
- „ 33. Temporary exhibition of a small dioptric Light at the Eastern Grove Light-house, at the entrance to the Rangoon River.
- „ 34. Reported incorrect position of Crocodile Rock, Cadiapatam or Muttum Point.
- „ 35. Replacing of Karwar Rock buoy, Karwar or Sadashivgad.
- „ 36. Date of re-exhibition of the permanent Light at Eastern Grove, at the entrance to the Rangoon River.
- „ 37. Position of the anchorage buoy at Berypore.
- „ 38. Buoys laid down to mark the entrance to the Madras Harbour.
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Report on the Internal Trade of Bengal for the year 1876-77. Published by the Government of Bengal. *Price, Rs. 5; Colored Map, Rs. 2-8.*

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Report on the Effects of Artificial Respiration, Intravenous Injection of Ammonia, and Administration of various Drugs, &c., in India and Australian Snake-poisoning; and the Physiological, Chemical and Microscopical Nature of Snake-poisons. By the Commission appointed to investigate the subject. *Price, Rs. 3; postage, 4 annas.*

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- Vol. II. Nadiya and Jessore.
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- Vol. IV. Bardwan, Bankura and Birbhum.
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The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 25, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Mr. James Stevenson has been admitted a partner in our firm as from 1st February.

GRAHAM & Co.

The 10th March 1882.

NOTICE.

The following Resolution, passed at the Tenth Annual General Meeting of the Subscribers to the Hindu Family Annuity Fund, held on the 28th January 1882, is published for general information, agreeably to Rule 57:—

“That the Directors be authorized to draw Rs. 5,063 during the year 1882-83, as provided in Rule 55, from the Deposit Account with the Government of India.”

BULLORAM MULLICK,
Chairman.

FRANKISSEN BOSE,
Secretary.

PROMISSORY NOTES.

Lost or Stolen

On the 23rd January 1882, the Government Promissory Notes Nos. ¹⁸⁸⁶⁷~~18866~~, for Rs. 1,000, and ¹⁸⁸⁶⁸~~18867~~, for Rs. 4,000, each of the 4 per cent. of 1835-36, originally standing in the name of

Rajchunder Sur, after whose death power under Act XXVII of 1860 lay with Koonja Bihari Sur, and lastly such power lies jointly with Haridhan Sur and Srimatya Haridasi, the proprietors, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favor of the proprietors.

HARIDHAN SUR & SRIMATYA HARIDASI,
Kutrong, District Hooghly.

The 9th March 1882.

Lost, Stolen, or Misaid.

The Government Promissory Note, No. 086068, of the 4 per cent. Loan of 1842-43, for Rs. 500, originally standing in the name of the Bank of Bengal, and last endorsed to Caetano Gabriel de Souza, the proprietor, by whom it was never endorsed to any other person. Payment of the above Note and the interest thereupon have been stopped at the Public Debt Offices, Bombay and Calcutta, and application is about to be made for the issue of a duplicate in favour of the proprietor.

CAETANO GEL. DE SOUZA,
Badem, Serula, Goa,
or care of Mr. J. J. de Souza,
113, Cavel Street, Bombay.

BOMBAY.

The 18th February 1882.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 25, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1882, and is hereby promulgated for general information:—

ACT No. XI OF 1882. THE INDIAN TARIFF ACT, 1882.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Repeal of Acts.
Saving clause.
3. Duties specified in schedules to be levied.
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5. Duties on goods crossing frontiers of Foreign European Settlements in Presidency of Madras, of foreign territory.
Power to declare territory foreign.
6. Excise-duty on spirit distilled in British India.
7. Duty on spirit, opium and salt when protected by a certificate.
8. Application of certain provisions as to duties and goods.
9. Power to cancel notifications.

SCHEDULE I.—ACTS REPEALED.

SCHEDULE II.—IMPORT TARIFF.

SCHEDULE III.—EXPORT TARIFF.

An Act to amend the law relating to Customs Duties, and for other purposes.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and ex-

ported by sea, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India and of the territories of certain Native Chiefs and for fixing a maximum duty of excise on spirit manufactured in British India; It is hereby enacted as follows:—

1. This Act may be called "The Indian Tariff Act, 1882"

Short title. It extends to the whole of British India except Aden;

Local extent. and it shall come into force on the passing thereof.

Commencement.

2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein:

But all notifications published, and rules and orders made, under any of such Acts, and now in force, shall, so far as they are consistent herewith, be deemed to have been respectively published and made hereunder:

All references made to the Indian Tariff Act, 1875, in Acts or Regulations passed before this Act comes into force, shall be deemed to be made to this Act:

And nothing herein contained authorizes the levy of duties of customs on any article carried from one port in British India to another, except salt, opium and spirit.

3. There shall be levied and collected, in every port to which this Act applies, the duties specified in the second and third schedules hereto annexed.

4. On all pepper exported by sea from the port of Cochin, there shall be levied such duty, not exceeding nine rupees per khandi as the Governor of Port Saint George in Council from time to time determines; and at the close of each year, or as soon thereafter as may be convenient, the Customs-collector at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Port Saint George in Council from time to time directs.

5. Duties of customs shall be levied at the rates respectively prescribed in the second and third schedules hereto annexed on goods passing by land out of or into—

(1) Foreign European Settlements situate on the line of coast within the limits of the Presidency of Fort Saint George;

(2) any territory declared, under the power next hereinafter conferred, to be foreign territory.

Subject to the control of the Governor General in Council, the Governor of Fort St. George in Council and the Governor of Bombay in Council may, from time to time, by notification

in the local official Gazette, respectively declare that the territory of any Native Chief, situate within, or bordering on, the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that the territory of any other Native Chief, shall be deemed, for the purposes of this section, to be foreign territory.

6. And whereas it is expedient that the duty of excise on spirit distilled in British India should bear a due proportion to the customs-duty on spirit imported into British India, it is hereby further enacted as follows:—

Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, the Local Government may, from time to time, by notification

in the local official Gazette, fix the duty of excise leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, at any rate not exceeding the rate fixed for imported spirit by the second schedule hereto annexed;

and all provisions now in force as to the levy of duty now chargeable on spirit shall apply to spirit upon which the duty declared under this section has not been paid.

In Act No. XVI of 1863, section one, for the words "calculated at ten" the words "not exceeding five" shall be substituted.

7. Spirit, opium and salt imported from any port

Duty on spirit, opium and salt when protected by a certificate. In British India, and protected by the certificate of an officer empowered in that behalf by the Governor General in Council or the Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the second schedule hereto annexed exceeds the duty shown by such certificate to have been already paid in respect thereof.

The amount, if any, paid to the Government as the price of such opium or salt is not duty within the meaning of this section.

8. So far as regards the Presidency of Fort St. George, the unrevoked provisions of Act No. VI of 1841, and so far as regards the Presidency of Bombay, the unrevoked provisions of Act No. XXIX of 1847, relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section five, clause (6).

9. All notifications published hereunder may be cancelled by the authority publishing the same.

SCHEDULE I.

ACTS REPEALED.

Number and year.	Short Title.	Extent of Repeal.
XI of 1869 ...	The Land Customs (Madras and Bombay) Act, 1869.	So much as has not been repealed.
XVI of 1875 ...	The Indian Tariff Act, 1875 ...	Ditto.
XI of 1878 ...	The Indian Arms Act, 1878 ...	Section 8 and the second Schedule.

SCHEDULE II.

IMPORT TARIFF.

No.	Names of Articles.	Per	Tariff valuation.	Duty.
1	ARMS, AMMUNITION AND MILITARY STORES— Fire-arms and parts thereof—			Rs. As.
	1. Fire-arms other than pistols, for each ...	.....	.....	50 0
	2. Barrels for the same, whether single or double, for each ...	.....	.....	30 0
	3. Pistols, for each ...	.....	.....	15 0
	4. Barrels for the same, whether single or double, for each ...	.....	.....	10 0
	5. Springs used for fire-arms, for each ...	.....	.....	8 0
	6. Gunstocks, sights, blocks and rollers, for each ...	.....	.....	5 0
	7. Revolver-breeches, for each cartridge they will carry ...	.....	.....	2 8

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.	
				Rs.	As.
	8. Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates, and all other parts of a fire-arm not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each ...	.....	.....	1	8
	9. Machines for making or loading or closing cartridges, for each ...	.....	.....	10	0
	10. Machines for capping cartridges, for each ...	.....	.....	2	8
	<i>Exception I.</i> —Articles falling under the 5th, 6th, 8th, 9th, or 10th head of the above list, when they appertain to a fire-arm falling under the 1st or 3rd head, and are fitted into the same case with such fire-arm, are free.				
	<i>Exception II.</i> —Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military or police uniform, and a revolver or a pair of pistols accompanying a military officer, are free.				
	<i>Proviso 1.</i> —No duty in excess of ten per cent. <i>ad valorem</i> shall be levied upon any of the articles mentioned in the above list when they are imported in reasonable quantity, for his own private use, by any person lawfully entitled to possess the same.				
	<i>Proviso 2.</i> —When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under this number, are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs-collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per cent. <i>ad valorem</i> ; and if such collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.				
	Gunpowder, common ...	lb.	Rs. A.	0	5
	" " sporting ...	lb.	1	0	
	All other sorts ...	.....	<i>Ad valorem</i>	} 10 per cent.	
2	Liquors—				
	Ale, beer and porter, except when condensed or concentrated ...	Impl. Gallon or six quart bottles ...	.....	One anna.	
	Cider, and other fermented liquors ...	Ditto ...	.....	Rs. 4.	
	Liqueurs ...	.....	<i>Ad valorem</i>	5 per cent.	
	Spirit intended to be used exclusively in arts or manufactures, or in chemistry, and which has been rendered effectually and permanently unfit for human consumption ...	.....	<i>Ad valorem</i>	5 per cent.	
	Spirit, when used in drugs, medicines or chemicals in a proportion less than twenty per cent. of spirit of the strength of London proof ...	.....	<i>Ad valorem</i>	5 per cent.	
	Spirit when so used in a proportion of twenty per cent. and upwards ...	Impl. Gallon or six quart bottles of the strength of London proof.	.....	} Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof.	
	Spirit, perfumed, in wood, or in bottles containing more than four ounces ...	Ditto ...	.....	
	Spirit, other sorts ...	Ditto ...	.....	

No.	Names of Articles.	Per	Tariff valuation.	Rate of Duty.
	Wines—			
	Champagne and all other sparkling wines ...	Impl. gallon or six quart bottles.	.....	Rs. 2-8.
	All other sorts of wines ...	Ditto ...	.....	Rs. 1.
3	OPIMUM NOT COVERED BY A GOVERNMENT PASS	Ser of 80 tolas	.....	Rs. 24.
4	SALT	Indian maund of 82½ lbs. avoirdupois weight.	.....	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.

SCHEDULE III.

EXPORT TARIFF.

Name of Article.	Per	Tariff valuation.	Rate of Duty.
Rice whether husked or unhusked	Indian maund of 82½ lbs. avoirdupois weight.	...	8 annas.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1882, and is hereby promulgated for general information :—

ACT No. XII of 1882.

THE INDIAN SALT ACT, 1882.

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PREAMBLE.

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3. Interpretation-clause.
4. Powers of Commissioner of Division by whom to be exercised.
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CHAPTER II.

MANUFACTURE AND REFINING OF SALT AND SALTPETRE.

6. Power of Governor General in Council—
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to fix fees for licenses;
to regulate the collection of duties;
to regulate possession of salt in vicinity of places where saltpetre is manufactured;
to regulate possession of salt in vicinity of places where salt is manufactured.

CHAPTER III.

DUTY AND PRICE OF SALT.

7. Power of Governor General in Council—
to impose a duty on manufacture of salt;
to reduce or remit duties;
to fix minimum price of salt excavated, &c., by Government.
8. Power of Local Government to fix minimum price of salt excavated, &c.

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OFFENCES AGAINST THE SALT-REVENUE.

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9. Penalties.
10. Punishment on second and subsequent convictions.
11. Charge by whom to be preferred.
Limitation.
Jurisdiction.
12. Confiscation of articles in respect of which offence committed.
13. Power to levy additional duty as penalty.
14. Punishment for connivance at offences mentioned in section nine.

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POWERS OF STOPPAGE, SEARCH, SEIZURE AND ARREST.

15. Power to search places where article is manufactured under license.
16. Power to detain suspected person and to seize goods liable to confiscation.
17. Power to arrest.
18. Procedure of officer having reason to believe unlawful manufacture.
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19. Failure of Police-officer to attend.
20. Report of arrest, seizure and search.
21. Procedure in respect of articles seized.
22. Procedure on detention of article subject to additional duty.
23. Procedure in respect of person arrested.
24. Officers required to assist Salt-revenue officers.
25. Vexatious search, seizure, &c., by Salt-revenue officer.
26. Power to regulate seizures and disposal of things seized.

CHAPTER VI.

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27. Power to prohibit import and transit of salt.
28. Further matters for which Governor General in Council may make rules.
29. Publication of rules.
30. Power to confer powers of Assistant Commissioner and Salt-revenue officers.
31. Amendment of Madras Act VI of 1871.

THE SCHEDULE—ENACTMENTS REPEALED.

An Act for regulating the duty on Salt, and for other purposes.

WHEREAS it is expedient to amend the law relating to the levy of duty on salt, and to the import and transit of salt, and the manufacture of salt and saltpetre, into, over and in British India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called
Short title "The Indian Salt Act," 1882;
and it shall come into force
Commencement at once.

This section, sections two, seven and eight, and so much of this Act as refers to offences against any of its provisions or against any rules made under it, extend to the whole of British India;

The rest of this Act extends to the territories for the time being respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces and Ajmer and Mewar, to the Province of Sind, to the Districts of the Patna Division, and to British territory under the jurisdiction of the Agent to the Governor General in Central India;

and any portion of this Act, other than the portions specified in the second paragraph of this section, may be extended, by order of the Governor General in Council published in the *Gazette of India*, to any part of British India other than the territories, Province and Districts mentioned in the third paragraph of this section.

2 The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof, but all rules made, licenses and passes granted, prices and duties fixed, notifications published and powers conferred under any such enactment and now in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, granted, fixed, published and conferred hereunder.

3 In this Act, unless there be something repugnant in the subject or context,—

the expression "the said territories" means the territories to which the section of this Act, in which that expression occurs, for the time being extends;

"Assistant Commissioner" means an Assistant Commissioner of Northern India Salt-revenue, and also includes any person invested by the Local Government with the powers of an Assistant Commissioner under this Act;

"Salt-revenue officer" means any officer of the Northern India Salt Department, and also includes any person invested by the Local Government with any of the powers of a Salt-revenue officer under this Act;

"Saltpetre" includes rasi, saji and all other substances manufactured from saline earth, and khari-nun and every form of sulphate or carbonate of soda; and

"manufacture of salt" includes the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce alimentary salt, and the excavation or removal of natural saline deposits or efflorescence.

4. The powers and duties conferred and imposed by this Act on a Commissioner of a Division may, in places where there is no such Commissioner, be exercised and performed by such officer as the Governor General in Council may from time to time appoint in this behalf.

5. At the head of the administration of the salt-revenue under this Act there shall be an officer, called the Commissioner of Northern India Salt-revenue, who shall be appointed, and may be suspended or removed, by the Governor General in Council.

CHAPTER II.

MANUFACTURE AND REFINING OF SALT AND SALTPETRE.

6. The Governor General in Council may, from time to time, by rule—

(a) prohibit absolutely, or subject to such conditions as he thinks fit, the manufacture of salt, or the manufacture or refining of saltpetre, throughout the whole or any portion of the said territories;

(b) fix fees for the following licenses, not exceeding in the case of each such license the amount herein-after mentioned:—

	Rs.
License to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining ...	50
License to manufacture saltpetre ...	2
License to manufacture sulphate of soda (khari-nun) by solar heat in evaporating pans ...	10
License to manufacture sulphate of soda (khari-nun) by artificial heat ...	2
License to manufacture other saline substances ...	2

(c) determine the manner, time and place in and at which, and the persons by whom, any duty imposed hereunder shall be collected in the said territories;

(d) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of Government, or of any manufactory and its appurtenances in or on which saltpetre is manufactured or refined, and regulate the possession, storage and sale of salt within such area;

(e) define an area round any other place in which salt is manufactured, and regulate the possession, storage and sale of salt within such area.

CHAPTER III.

DUTY AND PRICE OF SALT.

7. The Governor General in Council may from time to time by rule consistent with this Act—

(a) impose a duty, not exceeding three rupees per maund of 82½ pounds avoirdupois, on salt manufactured in, or imported by land into, any part of British India;

(b) reduce or remit any duties; duty so imposed, and re-impose any duty so reduced or remitted;

(c) fix the minimum price at which salt excavated, manufactured or sold by or on behalf of the Government of India shall be sold.

In calculating the amount of duty payable under this section, fractions of quarter maunds may be reckoned as quarter maunds.

8. Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf, the Local Government may from time to time, by notification in the local official Gazette, fix the minimum price at which salt excavated, manufactured or sold by or on behalf of such Local Government shall be sold.

CHAPTER IV.

OFFENCES AGAINST THE SALT-REVENUE.

9. Whoever commits any of the following offences (namely):—

(a) does anything in contravention of this Act or of any rule made hereunder;

(b) evades payment of any duty or charge payable under this Act or any such rule; or

(c) attempts to commit, or abets within the meaning of the Indian Penal Code the commission of, any of the offences mentioned in clauses (a) and (b) of this section,

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both;

and the convicting Magistrate, on the application of the Assistant Commissioner or Salt-revenue officer, may declare to be confiscated all works, materials and implements constructed or prepared for the purpose of manufacturing or refining salt or saltpetre contrary to the provisions of this Act or any such rule.

10. Any person convicted of an offence under section nine, after having been previously convicted of an offence under that section or section 11 of the Inland Customs Act, 1875, or under any enactment repealed by that Act, shall be punished with imprisonment for a term which may extend to six months, in addition to the punishment which may be inflicted for a first offence under section nine;

and every such person shall, upon every subsequent conviction of an offence under section nine, be liable to imprisonment for a term which may extend to six months, in addition to any term of imprisonment to which he was liable at his last previous conviction.

11. A charge of an offence under section nine, or under section 11 of the Inland Customs Act, 1875, shall not be entertained except on the complaint of an Assistant Commissioner or other Salt-revenue officer not inferior in rank to a Sub-Inspector,

and no such complaint shall be admitted unless it is preferred within six months after the commission of the offence to which it refers.

All such offences shall be tried by a Magistrate exercising powers not less than those of a Magistrate of the second class.

12. All salt or saltpetre in respect of which any offence mentioned in section nine has been committed, together with the vessels, packages or coverings in which such salt or saltpetre is contained, and the animals and conveyances used in carrying it, shall be liable to confiscation.

When the article seized exceeds five sers in weight, the Commissioner of the Division in which the seizure takes place may, if satisfied on the report of any Salt-revenue officer, or on such inquiry as he thinks fit to make, that such offence has been committed, declare such article to be confiscated or impose such lesser penalty in lieu of confiscation as to him may seem fit.

If the article seized does not exceed five sers in weight, the Assistant Commissioner shall possess the same powers in regard to its disposal as by this section are conferred on the Commissioner of the Division in regard to quantities exceeding five sers, and may also confiscate any vessel, package or covering in which such article is contained.

Whenever such Commissioner declares under this section any article to be confiscated, he may also declare to be confiscated any vessel, package or covering in which such article is contained, and any animal or conveyance used in carrying it.

13. The Governor General in Council may, from time to time, by rule, direct that any Salt-revenue officer, not inferior in rank to an Assistant Inspector, if satisfied in such manner as such rule may prescribe that any offence mentioned in section nine has been committed in respect of any dutiable salt, shall, instead of making a complaint to a Magistrate, or instituting proceedings with a view to confiscation, impose as a penalty an additional duty on such salt not exceeding the duty leviable thereon under Chapter III of this Act.

The imposition of every such penalty shall be at once reported, if the salt, in respect of which an offence has been committed, exceeds five sers in weight, to the Commissioner of the Division in which such penalty is imposed, and, if such salt does not exceed five sers in weight, to the Assistant Commissioner,

and shall require the sanction of the Commissioner or Assistant Commissioner, as the case may be, to whom it is so reported.

14. Any zamindár or other proprietor of land,
Punishment for con- and any agent of a zamin-
 nivance at offences men- dár or proprietor of land,
 tioned in section nine. who wilfully connives at
 any offence mentioned in section nine, shall for every such offence be punishable by any Magistrate exercising powers not less than those of a Magistrate of the second class with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

CHAPTER V.

POWERS OF STOPPAGE, SEARCH, SEIZURE AND ARREST.

15. Any Salt-revenue officer empowered in this
Power to search places where article is manufac- ment may at any time enter
 tured under license. and search any place in
 which any article is manufactured or refined under a license granted under this Act or any rule made hereunder.

16. Any Salt-revenue officer may stop and
Power to detain sus- detain any person whom he
 pected person and to has reason to believe to be
 seize goods liable to con- liable to punishment under
 fiscation. this Act ;

and may seize any salt or saltpetre in respect of which there is reason to believe that any offence mentioned in section nine has been committed, or that any duty is payable, together with the vessels, packages or coverings in which such salt or saltpetre is contained, and the animals or conveyances used in carrying it.

17. Any Salt-revenue officer may arrest any
Power to arrest. person whom he has reason
 to believe to have committed
 any such offence as last
 aforesaid.

18. Whenever any Salt-revenue officer, not in-
Procedure of officer inferior in rank to a Sub-In-
 having reason to believe spector, has reason to believe
 unlawful manufacture. that salt or saltpetre is being
 unlawfully manufactured, refined or stored in an unlicensed place,

such officer shall first record in writing (so far as may be practicable) (a) the name, residence, and calling of the informant (if any); (b) the locality and description of the house, boat or place where the officer believes that the salt or saltpetre is being so manufactured, refined or stored; (c) the name of the person by or for whom the salt or saltpetre is so manufactured, refined or stored; and (d) the supposed quantity and description of the salt or saltpetre, with the grounds for believing the same to be unlawfully manufactured, refined or stored;

and may then summon in writing the officer in charge of the Police-station within whose jurisdiction the house, boat or place to be searched is situate to attend him;

and may then, after sunrise and before sunset (but always in the presence of an officer of Police not inferior in rank to a head constable),
Power to enter and search. enter and search any house, boat or place in which

there is reason to believe that salt or saltpetre is being so manufactured, refined or stored;

and, in case of resistance, may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all salt and saltpetre so manufactured, refined or stored, and all materials used in the manufacture or refinement of such salt or saltpetre;

and may also detain and search and, if he thinks proper, arrest the occupier of the said house, boat or place, together with all persons concerned in the manufacture, refinement, or storing of such salt or saltpetre, or in the concealing thereof.

If the place so entered is an apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the officer entering the same shall be guided by the rules prescribed for such cases in the Code of Criminal Procedure.

Before conducting a search under this section, the officer conducting it shall call upon two or more respectable inhabitants (if any) of the locality in which the house, boat or place is situate to attend and witness the search, and the search shall be made in the presence of such inhabitants (if any), and also (if practicable) of the occupant of the house, boat or place searched.

Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

19. Any officer in charge of a Police-station who,
Failure of Police-offi- on application in writing
 cer to attend. made by a Salt-revenue
 officer to attend for any of the
 purposes specified in section eighteen, refuses or fails
 within a reasonable time so to attend or to depute
 a subordinate officer, not inferior in rank to a head
 constable, so to attend, shall for every such offence
 be punished with fine which may extend to five
 hundred rupees.

20. Whenever a Salt-revenue officer under the
Report of arrest, seiz- rank of Assistant Commis-
 ure and search. sioner arrests under this Act
 any person,

or seizes any article as liable to confiscation under this Act,

or enters any house, boat or place for the purpose of searching for any such article,

he shall (unless generally empowered by the Assistant Commissioner to send the person arrested to the Magistrate) within forty-eight hours next after such arrest, seizure or entry make a full report of all the particulars of such arrest, seizure or entry to his official superior for the information of the Assistant Commissioner.

Every officer making any arrest under this Act, or his official superior, shall, if generally empowered in this behalf by the Assistant Commissioner, either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the discharge of such person.

Every officer of Police attending any search made under section eighteen shall report the same to his official superior.

21. Whenever the Assistant Commissioner is
Procedure in respect informed of the seizure of any
 of articles seized. article exceeding five sers in
 weight as liable to con-
 fiscation under this Act, he shall, with all conveni-

ent despatch, report the circumstances of the case to the Commissioner of the Division in which such seizure is made, who may thereupon proceed under section twelve.

If the article seized does not exceed five sers in weight, such Assistant Commissioner may dispose of the case himself under the said section.

22 Any article in respect of which a penalty is imposed under section thirteen may be detained pending the receipt of the order of the Commissioner of the Division or the Assistant Commissioner, as the case may be, on the report required by the same section :

Provided that, if the owner of any article so detained deposits the amount of such penalty with, and pays all ordinary duty and charges payable on such article to, the Salt-revenue officer detaining the same, such article shall be at once released.

When an article is so detained it shall on the receipt of the said order be dealt with in accordance with the rules made in this behalf hereunder.

When an article has been released under the second paragraph of this section, and the Commissioner of the Division or Assistant Commissioner, as the case may be, reduces, or declines to sanction, the penalty imposed in respect of such article, the amount refundable to the owner shall be paid to him on his applying therefor to the Assistant Commissioner within six months, to be computed (where the order has been made by the Commissioner of the Division) from the day on which the Assistant Commissioner has received such order, and (where the order has been made by the Assistant Commissioner) from the date of such order.

When any penalty the amount of which has been deposited under the second clause of this section is sanctioned,

or when any sum refundable under this section has not been claimed within the said period of six months,

the amount so in deposit, or the sum so refundable, shall be forfeited to Her Majesty, unless the Commissioner of Northern India Salt-revenue otherwise directs.

23. Whenever the Assistant Commissioner is informed of the arrest of any person, he shall (unless such person has been dealt with under the penultimate paragraph of section twenty) either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the immediate discharge of such person.

24. All officers of Police, and all officers of Government engaged in the collection of land-revenue, are hereby empowered and required to assist the Salt-revenue officers in the execution of this Act.

25. Any Salt-revenue officer who—

(a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place ;

(b) vexatiously and unnecessarily detains, searches or arrests any person ;

(c) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act ;

(d) commits as such officer any other act to the injury of any person, when such officer has not reason to believe that such act is required for the execution of his duty,

shall for every such offence be punishable, by a Magistrate exercising powers not less than those of a Magistrate of the second class, with fine which may extend to five hundred rupees.

Any person wilfully and maliciously giving false information and so causing a search to be made under this Act shall be punishable, by a Magistrate exercising the same powers, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to two years, or with both.

26. The Governor General in Council may from time to time make rules consistent with this Act to regulate the seizure, disposal and destruction of things liable to be seized under this Act.

Such rules may, among other matters, provide—

(a) that the owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and that, if he omits to do so, such animal may be sold by public auction, and the expenses (if any) incurred on account of it defrayed from the proceeds of the sale ;

(b) that when anything is seized and an order for its release is subsequently passed, and the owner does not, within a period to be fixed by such rules, appear to claim such thing and tender the duty, penalties and charges (if any) due in respect thereof, it may be sold by public auction, and such duty, penalties and charges defrayed from the proceeds of the sale ;

(c) that the surplus-proceeds of a sale under clause (a) or clause (b) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period, not less than three months, to be fixed by such rules, be forfeited to Her Majesty.

CHAPTER VI.

MISCELLANEOUS.

27. The Governor General in Council may, from time to time, by rule, prohibit absolutely, or subject to conditions, the importation of salt into, or the transit of salt over, the said territories or any part thereof.

Except in the case of a prohibition under this section, nothing in this Act shall affect the transit of salt into or from any of the said territories, from or into any other part of British India.

28. In addition to the rules which the Governor General in Council is hereinbefore empowered to make, he may from time to time make rules consistent with this Act to regulate the following matters, namely :—

(a) the persons by whom, and the time, place and manner at or in which, anything to be done under this Act shall be done ;

(b) the cases in which and the officers to whom, and the conditions subject to which, orders given by Salt-revenue officers under this Act shall be appealable ;

(c) the fee to be charged on account of any license, pass, certificate, dākhilā, rawāna or other such document issued under this Act ;

and generally to carry out the provisions herein contained.

29. All rules made under this Act shall be published in the *Gazette of India*, and shall thereupon have the force of law.

30. Subject to the provisions herein contained, and to any rules for the time being in force made by the Governor General in Council, the Local Government or the Commissioner of Northern India Salt-revenue may invest any person with the powers of an Assistant Commissioner under this Act, or with all or any of the powers hereinbefore conferred on Salt-revenue officers.

31. For section 11 of the Madras Salt Excise Amendment of Madras Act, 1871, the following shall be substituted :—

“ 11. The excise-duty on salt manufactured in any district, or part of a district, to which this Act may be extended, shall be paid under such orders as the Board of Revenue from time to time makes in this behalf ; but no such duty shall be leviable until the salt is about to be removed from the place of storage, and no salt shall be so removed without a permit authorizing its removal from store, and such permit shall specify the quantity to be removed and the excise-duty levied or due thereon.”

SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
VIII of 1875	The Inland Customs Act, 1875.	The whole.
II of 1876 ...	The Burma Land and Revenue Act, 1876.	Section 39, clause (b), and in clause (c) of the same section the words and letter “under clause (b).”
XVIII of 1877	The Salt Act, 1877	The whole.

REGULATION.

III of 1877	The Ajmir Laws Regulation, 1877.	Sections 36 and 37,
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ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
VII of 1864	The Salt Act, 1864	Section nine.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

[Third Publication]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1882, and is hereby promulgated for general information:—

ACT NO. XIII OF 1882.

An Act to amend the law relating to Kánungos and Patwáris in the North-Western Provinces and Oudh.

WHEREAS it is expedient to amend, in manner hereinafter appearing, the law relating to Kánungos and Patwáris in the North-Western Provinces; It is hereby enacted as follows:—

Short title. 1 This Act may be called "The Kánungos and Patwáris Act, 1882;" and shall come into force at once.

2. Sections 29, 30 and 31 of the North-Western Provinces Land-Revenue Act, 1873, and sections 4 and 5 of the North-Western Provinces Land-Revenue Act, 1879, are hereby repealed.

Notwithstanding such repeal any landlord may recover from a tenant any rate, or any portion of a rate, accruing due before the thirtieth day of June, 1882, and which he is entitled to recover, under any rule made under section 29 of the said North-Western Provinces Land-Revenue Act, 1873, from such tenant.

3. The existing balance of the provincial fund constituted by section 29 of the said North-Western Provinces Land-Revenue Act, 1873, shall be disposed of in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

4. For the purpose of preparing the registers or accounts prescribed by the said North-Western Provinces Land-Revenue Act, 1873, or by any rule made thereunder, every owner or occupier of land in any patwári's circle, and the agent of every such owner or occupier, shall furnish to the patwári of such circle, the kánungo or such

person as the Collector of the district may appoint in this behalf, such information, at such times, as the Local Government may from time to time by rule prescribe.

Explanation—"Owner" in this section includes also a superior and an inferior proprietor, and a lessee, mortgagee or conditional vendee, in possession.

And whereas it is also expedient to amend the law relating to Kánungos and Patwáris in Oudh; It is hereby further enacted as follows:—

5. Sections 203 to 215 (both inclusive) of the Oudh Land-Revenue Act, 1876, are hereby repealed; but all appointments and rules made under any of the said sections and now in force shall, so far as they are consistent herewith, be deemed to have been made hereunder.

6. With the previous sanction of the Chief Commissioner, the Deputy Commissioner shall fix the number of patwáris' circles in his district and the respective limits of such circles, and may, with the like sanction, from time to time alter the number and limits so fixed.

For each such circle the Deputy Commissioner shall appoint a patwári.

7. The Chief Commissioner may, from time to time, make rules consistent with this Act—

(a) regulating the selection, appointment, suspension, dismissal, duties and supervision of patwáris;

(b) prescribing the fines which may be imposed on patwáris, and on persons appointed temporarily to perform their duties, for neglect of their duty.

8. Every kánungo and patwári, and every person appointed temporarily to perform the duties of any such officer, shall be deemed to be a public servant within the meaning of the Indian Penal Code,

and all official records and papers kept by any such officer or person shall be deemed to be public records and the property of Government.

9. For the purpose of preparing the registers or accounts prescribed by the said Oudh Land-Revenue Act, 1876, or by any rule made

thereunder, every owner or occupier of land in any patwári's circle, and the agent of every such owner or occupier, shall furnish to the patwári of such circle, the kánúngo or such person as the Deputy Commissioner may appoint in this behalf, such information, at such times, as the Chief Commissioner may from time to time by rule prescribe.

Explanation.—"Owner" in this section includes also a superior and an inferior proprietor, and a lessee, mortgagee or conditional vendee, in possession.

10. No suit shall be brought by a landlord
Suits for recovery of against a tenant for the
patwári-cess barred. recovery of any cess or rate

accruing due after the thirtieth day of June, 1882, and payable, in money or in kind, by such tenant on account of the remuneration of a patwári.

11. Sections one and ten and this section extend to the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh. Sections two, three and four extend to the territories administered by the said Lieutenant-Governor, and sections five to nine (both inclusive) extend to the territories administered by the said Chief Commissioner.

R. J. CROSTHWAITE,
Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

[Second Publication]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th March, 1882, and is hereby promulgated for general information :—

ACT No. XIV OF 1882.

THE CODE OF CIVIL PROCEDURE.

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An Act to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows:—

PRELIMINARY.

1. This Act may be cited as "The Code of Civil Procedure;" and it shall come into force on the first day of June, 1882.

This section and section 3 extend to the whole of British India. The other sections extend to the whole of British India except the Scheduled Districts as defined in Act No. XIV of 1874.

2. In this Act, unless there be something repugnant in the subject or context—

"chapter:" "chapter" means a chapter of this Code:

"district" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a

"District Court"), and includes the local limits of the ordinary original civil jurisdiction of a High Court: every Court of a grade inferior to that of a District Court and every Court of Small Causes shall, for the purposes of this Code, be deemed to be subordinate to the High Court and the District Court:

"pleader" means every person entitled to appear and plead for another in Court, and includes an advocate, a vakil and an attorney of a High Court:

"Government Pleader" includes also any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader:

"Collector" means every officer performing the duties of a Collector of land-revenue:

"decree" means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court when such adjudication, so far as regards the Court expressing it, decides the suit or appeal. An order rejecting a plaint, or directing accounts to be taken, or determining any question mentioned or referred to in section 244, but not specified in section 538, is within this definition: an order specified in section 538 is not within this definition:

"order" means the formal expression of any decision of a Civil Court which is not a decree as above defined:

"judgment" means the statement given by the Judge of the grounds of a decree or order:

"Judge" means the presiding officer of a Court:

"judgment-debtor" means any person against whom a decree or order has been made:

"decree-holder" means any person in whose favour a decree or any order capable of execution has been made, and includes any person to whom such decree or order is transferred:

"written" includes printed and lithographed, and "writing" includes print and lithography:

"signed" includes marked, when the person making the mark is unable to write his name; it also includes stamped with the name of the person referred to:

"foreign Court" means a Court situate beyond the limits of British India and not having authority in British India nor established by the Governor General in Council:

"foreign judgment" means the judgment of a foreign Court:

"public officer" means a person falling under any of the following descriptions (namely):—

every Judge;
every covenanted servant of Her Majesty;
every commissioned officer in the military or naval forces of Her Majesty while serving under Government;

every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any

document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty.

And in any part of British India in which this Code operates, "Government" includes the Government of India as well as the Local Government.

3. The enactments specified in the first schedule hereto annexed are hereby repealed to the extent mentioned in the third column thereof. But all notifications published, declarations and rules made, places appointed, agreements filed, scales prescribed and forms framed under any such enactment, shall, so far as they are consistent with this Code, be deemed to be respectively published, made, appointed, filed, prescribed and framed hereunder.

And when in any Act, Regulation or notification passed or issued prior to the day on which this Code comes into force, reference is made to Act No. VIII of 1859, Act No. XXIII of 1861, or the 'Code of Civil Procedure,' or to Act No. X of 1877, or to any other Act hereby repealed, such reference shall, so far as may be practicable, be read as applying to this Code or the corresponding part thereof.

Save as provided by section 99A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of June, 1882, or any proceedings after decree that may have been commenced and were still pending at that date.

Every appeal pending on the twenty-ninth day of July, 1879, which would have lain if this Code had been in force on the date of its presentation, shall be heard and determined as if this Code had been in force on such date; and every order passed before the same day, purporting to transfer a case to a Collector under section 320, and every notification published before the same day, purporting to be issued under section 360, shall be deemed to have been respectively passed and issued in accordance with law.

4. Save as provided in the second paragraph of section 3, nothing herein contained shall be deemed to affect the following enactments (namely):—

The Central Provinces Courts Act, 1865 :

The Burma Courts Act, 1875 :

The Panjáb Courts Act, 1877 :

The Oudh Civil Courts Act, 1879 :

or any law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council, prescribing a special procedure for suits between landholders and their tenants or agents,

or any law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council, providing for the partition of immoveable property.

And where under any of the said Acts concurrent civil jurisdiction is given to the Commissioner and the Deputy Commissioner, the Local Government may declare which of such officers shall for the purposes of this Code be deemed to be the District Court.

5. The chapters and sections of this Code specified in the second schedule hereto annexed extend (so far as they are applicable) to Courts of Small Causes constituted under Act No. XI of 1865, and to all other Courts (other than the Courts of Small Causes in the towns of Calcutta, Madras and Bombay) exercising the jurisdiction of a Court of Small Causes. The other chapters and sections of this Code do not extend to such Courts.

6. Nothing in this Code affects the jurisdiction or procedure—

(a) of Military Courts of Request; (a) of Military Courts of Request;

(b) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bázars at cantonments and stations occupied by the troops of that Presidency; or

(c) of Village Munsifs or Village Pancháyats under the provisions of the Madras Code;

(d) of the Recorder of Rangoon sitting as an Insolvent Court in Rangoon, Rangoon sitting as Insolvent Court, Maulmain, Akyab or Bassein,

or shall operate to give any Court jurisdiction over suits of which the amount or value of the subject-matter exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. With respect to

(a) the jurisdiction exercised by certain jágírdárs and other authorities invested with powers under the provisions of Bombay Regulation XIII of 1830 and Act XV of 1840 in the cases therein mentioned; and

(b) cases of the nature defined in the enactments specified in the third schedule hereto annexed,

the procedure in such cases and in the appeals to the civil Courts allowed therein, shall be according to the rules laid down in this Code, except where those rules are inconsistent with any specific provisions contained in the enactments mentioned or referred to in this section.

8. Save as provided in sections 3, 25, 86, 223, 225, 386, and chapter XXXIX, this Code shall not

extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay.

But the Local Government may, by notification published in the official Gazette, extend to any

such Court this Code or any part thereof, except so far as relates to appeals and reviews of judgment.

9. This Code is divided into ten Parts as follows :—

The first Part :	Suits in General.
The second Part :	Incidental Proceedings.
The third Part :	Suits in particular Cases.
The fourth Part :	Provisional Remedies.
The fifth Part :	Special Proceedings.
The sixth Part :	Appeals.
The seventh Part :	Reference to and Revision by the High Court.
The eighth Part :	Review of Judgment.
The ninth Part :	Special Rules relating to the Chartered High Courts.
The tenth Part :	Certain Miscellaneous Matters.

PART I.

OF SUITS IN GENERAL.

CHAPTER I.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

10. No person shall, by reason of his descent or place of birth, be in any civil proceeding exempted from the jurisdiction of any of the Courts.

11. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is barred by any enactment for the time being in force.

Explanation.—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

12. Except where a suit has been stayed under section 20, the Court shall not try any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit for the same relief between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in British India having jurisdiction to grant such relief, or in any Court beyond the limits of British India established by the Governor General in Council and having like jurisdiction, or before Her Majesty in Council.

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

13. No Court shall try any suit or issue in which the matter directly and substantially in issue

has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court of jurisdiction competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation II.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation III.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purpose of this section, be deemed to have been refused.

Explanation IV.—A decision is final within the meaning of this section when it is such as the Court making it could not alter (except on review) on the application of either party or reconsider of its own motion. A decision liable to appeal may be final within the meaning of this section until the appeal is made.

Explanation V.—Where persons litigate *bonâ fide* in respect of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purpose of this section, be deemed to claim under the persons so litigating.

Explanation VI.—Where a foreign judgment is relied on, the production of the judgment duly authenticated is presumptive evidence that the Court which made it had competent jurisdiction, unless the contrary appear on the record; but such presumption may be removed by proving the want of jurisdiction.

When foreign judgment no bar to suit in British India.

14. No foreign judgment shall operate as a bar to a suit in British India—

(a) if it has not been given on the merits of the case :

(b) if it appears on the face of the proceedings to be founded on an incorrect view of international law or of any law in force in British India :

(c) if it is in the opinion of the Court before which it is produced contrary to natural justice :

(d) if it has been obtained by fraud :

(e) if it sustains a claim founded on a breach of any law in force in British India.

CHAPTER II.

OF THE PLACE OF SUING.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Court in which suit to be instituted.

Suits to be instituted where subject-matter situate.

16. Subject to the pecuniary or other limitations prescribed by any law, suits

- (a) for the recovery of immoveable property,
- (b) for the partition of immoveable property,
- (c) for the foreclosure or redemption of a mortgage of immoveable property,
- (d) for the determination of any other right to or interest in immoveable property,
- (e) for compensation for wrong to immoveable property,
- (f) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that suits to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, when the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction he actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section ‘property’ means property situate in British India.

17. Subject to the limitations aforesaid, all other suits shall be instituted in a Court within the local limits of whose jurisdiction—

- (a) the cause of action arises, or
- (b) all the defendants, at the time of the commencement of the suit, actually and voluntarily reside, or carry on business, or personally work for gain; or
- (c) any of the defendants, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain: provided that either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution.

Explanation I.—Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

Explanation II.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(a) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A, and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(b) A resides at Simla, B at Calcutta, and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory-note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot be maintained without the leave of the Court.

18. In suits for compensation for wrong done to person or moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the plaintiff may at his option sue in either of the said Courts.

Illustrations.

(a) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

(c) A, travelling on the line of a Railway Company whose principal office is at Howrah, is upset and injured at Allahabad by negligence imputable to the Company. He may sue the Company either at Howrah or at Allahabad.

19. If the suit be to obtain relief respecting, or compensation for wrong to, immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be instituted in the Court within whose jurisdiction any portion of the property is situate; provided that, in respect of the value of the subject-matter of the suit, the entire claim be cognizable by such Court.

If the immoveable property be situate within the limits of different districts, the suit may be instituted in any Court, otherwise competent to try it, within whose jurisdiction any portion of the property is situate.

20. If a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction the defendant or all the defendants does not or do not actually and voluntarily reside, or carry on business, or personally work for gain, the defendant or any defendant may, after giving notice in writing to the other parties of his intention to apply to the Court to stay proceedings, apply to the Court accordingly;

and if the Court, after hearing such of the parties as desire to be heard, is satisfied that justice is more likely to be done by the suit being instituted in some other Court, it may stay proceedings either finally or till further order, and make such order as it thinks fit as to the costs already incurred by the parties or any of them.

In such case, if the plaintiff so requires, the Court shall return the plaint with an endorsement thereon of the order staying proceedings.

Every such application shall be made at the earliest possible opportunity, and in all cases before the issues are settled; and any defendant not so applying shall be deemed to have acquiesced in the institution of the suit.

21. Where the Court, under section 20, stays proceedings, and the plaintiff re-institutes his suit in another Court, the plaintiff shall not be chargeable with any court-fee; provided that the proper fee has been levied on the institution of the suit in the former Court, and that the plaint has been returned by such Court.

22. Where a suit may be instituted in more Courts than one, and such Courts are subordinate to the same appellate Court, any defendant, after giving notice in writing to the other parties of his intention to apply to such Court to transfer the suit to another Court, may apply accordingly; and the appellate Court, after hearing the other parties, if they desire to be heard, shall determine in which of the Courts having jurisdiction the suit shall proceed.

23. Where such Courts are subordinate to different appellate Courts, but are subordinate to the same High Court, any defendant, after giving notice in writing to the other parties of his intention to apply to the High Court to transfer the suit to another Court having jurisdiction, may apply accordingly. If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate. The High Court may, after considering the objections, if any, of the other parties, determine in which of the Courts having jurisdiction the suit shall proceed.

24. Where such Courts are subordinate to different High Courts, any defendant may, after giving notice in writing to the other parties of his intention to apply to the High Court within whose jurisdiction the Court in which the suit is brought is situate, apply accordingly.

If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate;

and such High Court shall, after considering the objections, if any, of the other parties, determine in which of the several Courts having jurisdiction the suit shall proceed.

25. The High Court or District Court may, on the application of any of the parties, after giving notice to the parties and hearing such of them as desire

to be heard, or of its own motion without giving such notice, withdraw any suit whether pending in a Court of first instance or in a Court of appeal subordinate to such High Court or District Court, as the case may be, and try the suit itself, or transfer it for trial to any other such subordinate Court competent to try the same in respect of its nature and the amount or value of its subject-matter.

For the purposes of this section, the Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

CHAPTER III.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

26. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the Court in disposing of the costs of the suit otherwise directs.

27. Where a suit has been instituted in the name of the wrong person or add plaintiff for or to plaintiff suing, as plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may, if satisfied that the suit has been so commenced through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as the Court thinks just.

28. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative, in respect of the same matter. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

29. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange, hundis and promissory notes.

30. Where there are numerous parties having the same interest in one suit, one or more of such parties may, with the permission of the Court, sue or be sued, or may defend, in such suit, on behalf of all parties so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such parties either by personal service or (if from the number of parties or any other cause such service is not reasonably practicable) by public advertisement, as the Court in each case may direct.

31. No suit shall be defeated by reason of the misjoinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Nothing in this section shall be deemed to enable plaintiffs to join in respect of distinct causes of action.

32. The Court may, on or before the first hearing, upon the application of either party, and on such terms as the Court thinks just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out ;

and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

No person shall be added as a plaintiff, or as the next friend of a plaintiff, without his own consent thereto.

Any person on whose behalf a suit is instituted or defended under section 30 may apply to the Court to be made a party to such suit.

All parties whose names are so added as defendants shall be served with a summons in manner herein-after mentioned, and (subject to the provisions of the Indian Limitation Act, 1877, section 22) the proceedings as against them shall be deemed to have begun only on the service of such summons.

The Court may give the conduct of the suit to such plaintiff as it deems proper.

33. Where a defendant is added, the plaint, if previously filed, shall, unless the Court direct otherwise, be amended in such manner

as may be necessary, and an amended copy of the summons shall be served on the new defendant and the original defendants.

34. All objections for want of parties, or for Time for taking objections as to non-joinder or misjoinder. joinder of parties who have no interest in the suit, or for misjoinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the first hearing ; and any such objection not so taken shall be deemed to have been waived by the defendant.

35. When there are more plaintiffs than one, Each of several plaintiffs or defendants may authorize any other to appear, &c., for him. any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding under this Code : and in like manner when there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any such proceeding.

The authority shall be in writing signed by the party giving it, and shall be Authority to be in writing signed and filed. filed in Court.

Recognized Agents and Pleadors.

36. Any appearance, application or act in or to Apppearances, &c., may be in person, by recognized agent or by pleader. any Court, required or authorized by law to be made or done by a party to a suit or appeal in such Court, may, except when otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf :

Provided that any such appearance shall be made by the party in person, if the Court so direct.

37. The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

(a) persons holding general powers-of-attorney from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, authorizing them to make and do such appearances, applications and acts on behalf of such parties ;

(b) mukhtárs duly certificated under any law for the time being in force, and holding special powers-of-attorney authorizing them to do, on behalf of their principals, such acts as may legally be done by mukhtárs ;

(c) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters con-

nected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

Nothing in the former part of this section applies to the territories now administered respectively by the Lieutenant-Governor of the Panjáb, and the Chief Commissioners of Oudh and the Central Provinces; but in those territories the recognized agents of parties by whom such appearances, applications and acts may be made and done shall be such persons as the Local Government may from time to time, by notification in the official Gazette, declare in this behalf.

38. Processes served on the recognized agent of a party to a suit or appeal shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

The provisions of this Code for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

39. The appointment of a pleader to make or do any appearance, application or act as aforesaid shall be in writing, and such appointment shall be filed in court.

When so filed, it shall be considered to be in force until revoked with the leave of the Court, by a writing signed by the client and filed in court, or until the client or the pleader dies, or all proceedings in the suit are ended so far as regards the client.

No advocate of any High Court established by Royal Charter shall be required to present any document empowering him to act.

40. Processes served on the pleader of any party or left at the office or ordinary residence of such pleader, relative to a suit or appeal, and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents; and, unless the Court otherwise directs, shall be as effectual for all purposes in relation to the suit or appeal as if the same had been given to or served on the party in person.

41. Besides the recognized agents described in section 37, any person residing within the jurisdiction of the Court may be appointed an agent to accept service of process.

Such appointment may be special or general and shall be made by an instrument in writing signed by the principal, and such instrument, or, if the appointment be general, a duly attested copy thereof, shall be filed in court.

CHAPTER IV.

OF THE FRAME OF THE SUIT.

42. Every suit shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them.

43. Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

If a plaintiff omit to sue in respect of, or intentionally relinquish, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

A person entitled to more than one remedy in respect of the same cause of action may sue for all or any of his remedies; but if he omits (except with the leave of the Court obtained before the first hearing) to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action.

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years 1881 and 1882 is due and unpaid. A sues B only for the rent due for 1882. A shall not afterwards sue B for the rent due for 1881.

44. Rule a.—No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immovable property, or to obtain a declaration of title to immovable property, except—

(a) claims in respect of mesne profits or arrears of rent in respect of the property claimed,

(b) damages for breach of any contract under which the property or any part thereof is held, and

(c) claims by a mortgagee to enforce any of his remedies under the mortgage.

Rule b.—No claim by or against an executor, administrator or heir as such, shall be joined with claims by or against him personally, unless the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir, or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents.

45. Subject to the rules contained in chapter II and in section 44, the plaintiff may unite in the same suit several causes of action.

against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant, or the same defendants jointly, may unite such causes of action in the same suit.

But if it appear to the Court that any such causes of action cannot be conveniently tried or disposed of together, the Court may, at any time before the first hearing, of its own motion or on the application of any defendant, or at any subsequent stage of the suit, if the parties agree, order separate trials of any such causes of action to be had, or make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit, whether or not an order has been made under the second paragraph of this section.

46. Any defendant alleging that the plaintiff has united in the same suit several causes of action which cannot be conveniently disposed of in one suit may at any time before the first hearing, or, where issues are settled, before any evidence is recorded, apply to the Court for an order confining the suit to such of the causes of action as may be conveniently disposed of in one suit.

If, on the hearing of such application, it appears to the Court that the causes of action are such as cannot all be conveniently disposed of in one suit, the Court may order any of such causes of action to be excluded, and may direct the plaintiff to be amended accordingly, and may make such order as to costs as may be just.

Every amendment made under this section shall be attested by the signature of the Judge.

CHAPTER V.

OF THE INSTITUTION OF SUITS.

48. Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

49. The plaint must be distinctly written in the language of the Court; provided that, if such language is not English, the plaint may (with the permission of the Court) be written in English; but in such case, if the defendant so require, a translation of the plaint into the language of the Court shall be filed in court.

50. The plaint must contain the following particulars:—

(a) the name of the Court in which the suit is brought;

(b) the name, description and place of residence of the plaintiff;

(c) the name, description and place of residence of the defendant, so far as they can be ascertained;

(d) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(e) a demand of the relief which the plaintiff claims; and

(f) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

If the plaintiff seeks the recovery of money, the plaintiff must state the precise amount, so far as the case admits.

In a suit for mesne profits, and in a suit for the amount which will be found due to the plaintiff on taking unsettled accounts between him and the defendant, the plaintiff need only state approximately the amount sued for.

When the plaintiff sues in a representative character, the plaintiff should shew, not only that he has an actual existing interest in the subject-matter but that he has taken the steps necessary to enable him to institute a suit concerning it.

Illustrations.

(a) A sues as B's executor. The plaintiff must state that A has proved B's will.

(b) A sues as C's administrator. The plaintiff must state that A has taken out administration to C's estate.

(c) A sues as guardian of D, a Muhamadan minor. A is not D's guardian according to Muhamadan law and usage. The plaintiff must state that A has been specially appointed D's guardian.

The plaintiff must shew that the defendant is or claims to be interested in the subject-matter, and that he is liable to be called upon to answer the plaintiff's demand.

Illustration.

A dies, leaving B his executor, C his legatee, and D a debtor to A's estate. C sues D to compel him to pay his debt in satisfaction of C's legacy. The plaintiff must shew that B has causelessly refused to sue D, or that B and D have colluded for the purpose of defrauding C, or other such circumstances rendering D liable to C.

If the cause of action arose beyond the period ordinarily allowed by any law for instituting the suit, the plaintiff must shew the ground upon which exemption from such law is claimed.

51. The plaint shall be signed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

Provided that if the plaintiff is, by reason of absence or for other good cause, unable to sign

the plaint, it may be signed by any person duly authorized by him in this behalf.

52. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to matters stated on information and belief, and that as to those matters he believes it to be true.

Verification to be signed and attested. The verification shall be signed by the person making it.

53. The plaint may, at the discretion of the Court and at or before the first hearing, be rejected, returned for amendment within a time to be fixed by the Court, or amended then and there, upon such terms as to the payment of costs occasioned by the amendment as the Court thinks fit,

When plaint may be rejected, returned for amendment, or amended. (a) if it does not state correctly and without prolixity the several particulars hereinbefore required to be specified therein; or

(b) if it contains any particulars other than those so required; or

(c) if it is not signed and verified as hereinbefore required; or

(d) if it does not disclose a cause of action; or

(e) if it is not framed in accordance with section 42; or

(f) if it is wrongly framed by reason of non-joinder or misjoinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same suit:

Provided that a plaint cannot be altered so as to convert a suit of one character into a suit of another and inconsistent character.

When a plaint is amended, the amendment shall be attested by the signature of the Judge.

When plaint shall be rejected. **54.** The plaint shall be rejected in the following cases:—

(a) if the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so:

(b) if the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so:

(c) if the suit appears from the statement in the plaint to be barred by any positive rule of law:

(d) if the plaint, having been returned for amendment within a time fixed by the Court, is not amended within such time.

55. When a plaint is rejected, the Judge shall Procedure on reject- record with his own hand ing plaint. an order to that effect with the reason for such order.

56. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

When plaint shall be returned to be presented to proper Court. **57.** The plaint shall be returned to be presented to the proper Court in the following cases:

(a) if a suit has been instituted in a Court whose grade is lower or higher than that of the Court competent to try it, where such Court exists, or where no option as to the selection of the Court is allowed by law:

(b) if, in a suit relating to immoveable property, but not coming under the proviso to section 16, it appears that no part of such property is situate within the local limits of the jurisdiction of the Court to which the plaint is presented:

(c) if, in any other case, it appears that the cause of action did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

On returning a plaint, the Judge shall, with Procedure on return- his own hand, endorse there- ing plaint. on the date of its presenta- tion and return, the name of the party presenting it, and a brief statement of the reason for return- ing it.

58. The plaintiff shall endorse on the plaint, or Procedure on admit- annex thereto, a memoran- ing plaint. dum of the documents (if any) which he has produced along with it; and, if the plaint be admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permits him to present a like number of Concise statements. concise statements of the nature of the claim made, or of the relief or remedy required, in the suit, in which case he shall present such statements.

If the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

The chief ministerial officer of the Court shall sign such memorandum and copies or statements if, on examination, he finds them to be correct.

The Court shall also cause the particulars men- Register of suits tioned in section 50 to be entered in a book to be kept

for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

What shall be deemed 'sufficient time' must be determined with reference to the circumstances of the case.

70. The summons to appear and answer shall order the defendant to produce any document in his possession or power, containing evidence relating to the merits of the plaintiff's case, or upon which the defendant intends to rely in support of his case.

71. When the summons is for the final disposal of the suit, it shall direct the defendant to produce, on the day fixed for his appearance, the witnesses upon whose evidence he intends to rely in support of his case.

Service of Summons.

72. The summons shall be delivered to the proper officer of the Court, to be served by him or one of his subordinates.

73. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.

74. When there are more defendants than one, service of the summons shall be made on each defendant:

Provided that, if the defendants are partners, and the suit relates to a partnership transaction or to an actionable wrong in respect of which relief is claimable from the firm, the service may be made, unless the Court directs otherwise either (a) on one defendant for himself and for the other defendants, or (b) on any person having the management of the business of the partnership at the principal place, within the local limits of the Court's ordinary original civil jurisdiction, of such business.

75. Whenever it may be practicable, the service shall be made on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

76. In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons issues, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

For the purpose of this section, the master of a ship is the agent of his owner or charterer.

77. In a suit to obtain relief respecting, or compensation for wrong to, immovable property, if the service cannot be made on the defendant in person, and the defendant have no agent empowered to accept the service, it may be made on any agent of the defendant in charge of the property.

78. If in any suit the defendant cannot be found and if he have no agent empowered to accept the service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this section.

79. When the serving-officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

80. If the defendant or other person refuses to sign the acknowledgment,

or if the serving-officer cannot find the defendant, and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

the serving officer shall affix a copy of the summons on the outer door of the house in which the defendant ordinarily resides and then return the original to the Court from which it issued, with a return endorsed thereon or annexed thereto, stating that he has so affixed the copy and the circumstances under which he did so.

81. The serving-officer shall, in all cases in which the summons has been served under section 79, endorse or annex, or cause to be endorsed or annexed, on or to the original summons, the time when and the manner in which the summons was served.

82. When a summons is returned under section 80, the Court shall examine the serving-officer on oath touching his proceedings, and may make such further enquiry in the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding the service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and

also upon some conspicuous part of the house, if any, in which the defendant is known to have last resided, or in such other manner as the Court thinks fit.

83. The service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

84. Whenever service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

85. If the defendant resides within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent resident within the local limits of the jurisdiction of the latter Court empowered to accept the service of the summons, such Court shall send the summons, either by one of its officers or by post, to any Court, not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be conveniently served, and shall fix such time for the appearance of the defendant as the case may require.

The Court to which the summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court, and shall then return the summons to the Court from which it originally issued, together with the record (if any) made under this paragraph.

86. Whenever any process issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such town, it shall be sent to the Court of Small Causes within whose jurisdiction the process is to be served,

and such Court of Small Causes shall deal with such process in the same manner as if the process had been issued by itself,

and shall then return the process to the Court from which it issued.

87. If the defendant be in jail, the summons shall be delivered to the officer in charge of the jail in which the defendant is confined, and such officer shall cause the summons to be served upon the defendant.

The summons shall be returned to the Court from which it issued, with a statement of the service endorsed thereon and signed by the officer in charge of the jail and by the defendant.

88. If the jail in which the defendant is confined is not in the district in which the suit is instituted, the summons may be sent by post or otherwise to the officer in charge of such jail, and such officer shall cause the summons

to be served upon the defendant, and shall return the summons to the Court from which it issued, with a statement of the service endorsed thereon, and signed as provided in section 87.

89. If the defendant resides out of British India, and has no agent in British India empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing, and forwarded to him by post if there be postal communication between such place and the place where the Court is situate.

90. If there be a British Resident or Agent of Government in or for the territory in which the defendant resides, the summons may be sent to such Resident or Agent, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident or Agent returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be conclusive evidence of the service.

91. The Court may, notwithstanding anything hereinbefore contained, substitute for the summons a letter signed by the Judge or such officer as he appoints in this behalf, when the defendant is, in the opinion of the Court, of a rank which entitles him to such mark of consideration.

The letter shall contain all the particulars required to be stated in the summons, and, subject to the provisions contained in section 92, shall be treated in all respects as a summons.

92. When a letter is so substituted for a summons, it may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; unless the defendant has an agent empowered to accept service of summons, in which case the letter may be delivered or sent to such agent.

Service of Process.

93. Every process issued under this Code shall be served at the expense of the party on whose behalf it is issued, unless the Court otherwise directs.

The court-fee leviable for such service shall be levied within a time to be fixed by the Court before the process is issued.

94. All notices and orders required by this Code to be given to or served on any person shall be in writing, and shall be served in the manner hereinbefore provided for the service of summons.

Postage.

95. Postage, where chargeable on any notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed by the Court before the communication is forwarded :

Provided that the Local Government, with the previous sanction of the Governor General in Council, may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

96. On the day fixed in the summons for the parties to appear on day fixed in summons for defendant to appear and answer. the parties shall be in attendance at the court-house in person or by their respective pleaders, and the suit shall then be heard, unless the hearing be adjourned to a future day fixed by the Court.

97. If, on the day so fixed for the defendant to appear and answer, it be found that the summons has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee leviable for such service, the Court may order that the suit be dismissed :

Provided that no such order shall be passed, although the summons has not been served upon the defendant, if, on the day fixed for him to appear and answer, he attends in person or by agent, when he is allowed to appear by agent.

98. If on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit is adjourned, neither party appears, the suit shall be dismissed, unless the Judge, for reasons to be recorded under his hand, otherwise directs.

99. Whenever a suit is dismissed under section 97 or section 98, the plaintiff may (subject to the law of limitation) bring a fresh suit; or if, within the period of thirty days from the date of the order dismissing the suit, he satisfies the Court that there was a sufficient excuse for his not paying the court-fee required within the time allowed for the service of the summons, or for his not appearing, as the case may be, the Court may restore the suit to its file. or Court may restore non-appearance, as the case may be, the Court shall pass an order to set aside the dismissal and appoint a day for proceeding with the suit.

99A. If, after a summons has, whether before or after the first day of June, 1882, been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails for a period of one year from such return to apply for the issue of a fresh summons and to satisfy the Court that he has used his best endeavours to discover the residence of the defendant who has not been served, or that such defendant is avoiding service of process, the Court may dismiss the suit as against such defendant.

In such case the plaintiff may (subject to the law of limitation) bring a fresh suit.

Procedure if only plaintiff appears, 100. If the plaintiff appears and the defendant does not appear, the procedure shall be as follows :

when summons duly served, (a) if it is proved that the summons was duly served, the Court may proceed *ex parte* :

when summons not duly served, (b) if it is not proved that the summons was duly served, the Court shall direct a second summons to be issued and served on the defendant :

(c) if it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

If it is owing to the plaintiff's default that the summons was not served in sufficient time, the Court shall order him to pay the costs occasioned by such postponement.

101. If the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

102. If the defendant appears and the plaintiff does not appear, the Court shall dismiss the suit, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

103. When a suit is wholly or partially dismissed under section 102, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside ; and, if it be proved that he was prevented by any

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing to be necessary for reasons to be recorded by the Judge with his own hand.

157. If, on any day to which the hearing of the suit is adjourned, the parties fail to appear on day fixed, or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Chapter VII, or make such other order as it thinks fit.

158. If any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. The parties may, after the summons has been delivered for service on the defendant, whether it be for the settlement of issues only, or for the final disposal of the suit, obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such settlement or disposal, as the case may be, summonses to persons whose attendance is required either to give evidence or to produce documents.

160. The party applying for a summons shall, before the summons is granted and within a period to be fixed by the Court, pay into court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned, in passing to and from the court in which he is required to attend, and for one day's attendance.

If the Court be subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) laid down by competent authority.

161. The sum so paid into Court shall be tendered to the person summoned, at the time of serving the summons, if it can be served personally.

162. If it appear to the Court or to such officer as it appoints in this behalf that the sum paid into Court is not sufficient to cover such expenses, the Court may direct such

further sum to be paid to the person summoned as appears to be necessary on that account; and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

If it be necessary to detain the person summoned for a longer period than one day, the Court may, from time to time, order the party at whose instance he was summoned to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of the party at whose instance he was summoned; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

163. Every summons for the attendance of a person to give evidence or to produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce shall be described in the summons with reasonable accuracy.

164. Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

165. Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his actual possession or power.

166. Every summons to a person to give evidence or produce a document shall be served as nearly as may be in manner hereinbefore prescribed for the service of summons on the defendant; and the rules contained in Chapter VI as to proof of service shall apply in the case of all summonses served under this section.

167. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

168. If the serving-officer certify to the Court that the summons for the attendance of a person, either to give evidence or to produce a document, cannot be served, the Court shall examine the serving-officer on oath touching the non-service:

and upon being satisfied that such evidence or production is material, and that the person for whose attendance the summons has been issued is absconding or keeping out of the way for the purpose of avoiding the service of the summons, may issue a proclamation requiring him to attend to give evidence, or produce the document, at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door of the house in which he ordinarily resides.

If he does not attend at the time and place named in such proclamation, the Court may in its discretion, at the instance of the party on whose application the summons was issued, make an order for the attachment of the property of the person whose attendance is required, to such amount as the Court thinks fit, not exceeding the amount of the costs of attachment and of the fine which may be imposed under section 170:

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

169. If, on the attachment of his property, such person appears and satisfies the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

170. If such person does not appear, or, appearing, fails to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court may impose upon him such fine not exceeding five hundred rupees as the Court thinks fit, having regard to his condition in life and all the circumstances of the case, and may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of the said fine, if any:

Provided that, if the person whose attendance is required pays into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

171. Subject to the rules of this Code as to attendance and appearance and to the provisions of the Indian Evidence Act, 1872, if

the Court at any time thinks it necessary to examine any person other than a party to the suit and not named as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

172. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit must attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document must either attend to produce it, or cause it to be produced, at such time and place.

173. No person so summoned and attending shall depart unless and until (a) he has been examined or has produced the document and the Court has risen, or (b) he has obtained the Court's leave to depart.

174. If any person on whom a summons to give evidence or produce a document has been served fails to comply with the summons, or if any person so summoned and attending departs in contravention of section 173, the Court may order him to be arrested and brought before the Court:

Provided that no such order shall be made when the Court has reason to believe that the person so failing had a lawful excuse for such failure.

When any person so brought before the Court fails to satisfy it that he had a lawful excuse for not complying with the summons, the Court may sentence him to fine not exceeding five hundred rupees.

Explanation.—Non-payment or non-tender of a sum sufficient to defray the expenses mentioned in section 160 shall be deemed a lawful excuse within the meaning of this section.

If any person so apprehended and brought before the Court cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and on such bail or security being given, may release him.

175. If any person so failing to comply with a summons absconds or keeps out of the way, so that he cannot be apprehended and brought before the Court, the provisions of sections 168, 169 and 170 shall, *mutatis mutandis*, apply.

176. No one shall be bound to attend in person to give evidence or to be examined in Court unless he resides—

Persons bound to attend in person.

(a) within the local limits of its ordinary original jurisdiction, or

(b) without such limits and at a place less than fifty or (where there is railway-communication for five-sixths of the distance between the place where he resides and the place where the Court is situate) two hundred miles distant from the Court-house.

177. If any party to a suit present in Court re-

Consequence of refusal of party to give evidence when called on by Court.

fuses, without lawful excuse, when required by the Court, to give evidence or to produce any document

then and there in his actual possession or power, the Court may in its discretion either pass a decree against him, or make such order in relation to the suit as the Court thinks fit.

178. Whenever any party to a suit is required

Rules as to witnesses to apply to parties summoned.

to give evidence or to produce a document, the rules as to witnesses contained in

this Code shall apply to him so far as they are applicable.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. On the day fixed for the hearing of the

Statement and production of evidence by party having right to begin.

suit, or on any other day to which the hearing is adjourned, the party having the right to begin shall state

his case and produce his evidence in support of the issues which he is bound to prove.

Explanation.—The plaintiff has the right to

Rules as to right to begin.

begin unless where the defendant admits the facts alleged by the plaintiff and

contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

Statement and production of evidence by other party.

180. The other party shall then state his case and produce his evidence (if any).

Reply by party beginning.

The party beginning is then entitled to reply.

Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party. In the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the

evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

181. The evidence of the witnesses in attend-

Witnesses to be examined in open Court.

ance shall be taken orally in open Court in the presence, and under the personal direction and superintendence, of the Judge.

182. In cases in which an appeal is allowed, the

How evidence shall be taken in appealable cases.

evidence of each witness shall be taken down in writing, in the language of the

Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties or their pleaders, and the Judge shall, if necessary, correct the same and shall sign it.

183. If the evidence is taken down under sec-

When deposition to be interpreted.

tion 182 in a language dif-

ferent from that in which it was given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given.

184. In cases in which the evidence is not

Memorandum when evidence not taken down by Judge.

taken down in writing by the Judge, he shall be bound, as the examination of each

witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

185. Where English is not the language of the

When evidence may be taken in English.

Court, but all the parties to the suit who appear in per-

son, and the pleaders of such as appear by pleaders, do not object to have such evidence as is given in English taken down in English, the Judge may so take it down with his own hand.

186. The Court may of its own motion or on

Any particular question and answer may be taken down.

the application of any party or his pleader take down, or cause to be taken down, any

particular question and answer, or any objection to any question, if there appear any special reason for so doing.

187. If any question put to a witness be ob-

Questions objected to and allowed by Court.

jected to by a party or his pleader, and the Court allows

the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it, together with the decision of the Court thereon.

188. The Court may record such remarks as it

Remarks on demeanour of witnesses.

thinks material respecting the demeanour of any wit-

ness while under examination.

189. In cases in which an appeal is not allowed, Memorandum of evi- it shall not be necessary to dence in unappealable take down the evidence of cases. the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

190. If the Judge be rendered unable to make Judge unable to make a memorandum as above such memorandum to re- required by this chapter, he cord reason of his in- shall cause the reason of such ability shall cause the memorandum to be recorded, and shall cause the memorandum to be made in writing from his dictation in open Court.

Every memorandum so made shall form part of the record.

191. Where the Judge taking down any evi- Power to deal with dence, or causing any memo- evidence taken down by randum to be made under Judge removed before this chapter, dies or is re- conclusion of suit. moved from the Court before the conclusion of the suit, his successor may, if he thinks fit, deal with such evidence or memorandum as if he himself had taken it down or caused it to be made.

192. If a witness be about to leave the jurisdic- Power to examine wit- tion of the Court, or if other ness immediately. sufficient cause be shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may, upon the application of either party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient, of the day fixed for the examination, shall be given to the parties.

The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and may then be read at any hearing of the suit.

193. The Court may at any stage of the suit Court may recall and recall any witness who has examine witness. been examined and who has not departed in accordance with section 173, and may (subject to the provisions of the Indian Evidence Act, 1872) put such questions to him as the Court thinks fit.

CHAPTER XVI.

OF AFFIDAVITS.

194. Any Court of first instance and any appel- Power to order any late Court may at any time point to be proved by affidavit. for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bona fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

195. Upon any application evidence may be given by affidavit, but the Power to order at- tendance of declarant for cross-examination. Court may at the instance of either party order the attendance for cross-examination of the declarant.

Such attendance shall be in Court unless the declarant is exempted under this Code from personal appearance in court, or the Court otherwise directs.

196. Affidavits shall be confined to such facts as the declarant is able of his own knowledge to prove, Matters to which affi- davis shall be confined. except on interlocutory applications, on which statements of his belief may be admitted, provided that reasonable grounds thereof be set forth.

The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall (unless the Court otherwise directs) be paid by the party producing the same.

197. In the case of any Oath of declarant by whom to be administered. affidavit under this Code—
(a) any Court or Magistrate, or

(b) any officer whom a High Court may appoint in this behalf, or

(c) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf, may administer the oath of the declarant.

CHAPTER XVII.

OF JUDGMENT AND DECREE.

198. The Court, after the evidence has been Judgment when pro- duly taken and the parties nounced. have been heard either in person or by their respective pleaders or recognized agents, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their pleaders.

199. A Judge may pronounce a judgment written by his predecessor but not pronounced. Power to pronounce judgment written by Judge's predecessor.

200. The judgment shall be written in the Language of judg- language of the Court, or ment. in English, or in the Judge's mother-tongue.

201. Whenever the judgment is written in any Translation of judg- language other than that of ment. the Court, the judgment shall, if any of the parties so

require, be translated into the language of the Court, and the translation shall also be signed by the Judge or such officer as he appoints in this behalf.

202. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it, and shall not be altered or added to, save to correct verbal errors or to supply some accidental defect not affecting a material part of the case, or on review.

203. The judgments of the Courts of Small Causes need not contain more than the points for determination and the decision thereupon.

The judgments of all other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

204. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons thereof, upon each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

205. The decree shall bear date the day on which the judgment was pronounced; and, when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree.

206. The decree must agree with the judgment: it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claims, as stated in the register, and shall specify clearly the relief granted or other determination of the suit.

The decree shall also state the amount of costs incurred in the suit, and by what parties and in what proportions such costs are to be paid.

If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error be found in the decree, the Court shall, of its own motion or on that of any of the parties, amend the decree so as to bring it into conformity with the judgment or to correct such error: provided that reasonable notice has been given to the parties or their pleaders of the proposed amendment.

207. When the subject-matter of the suit is immovable property, and such property is identified by boundaries or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers.

208. When the suit is for moveable property, if the decree be for the delivery of such property, it

shall also state the amount of money to be paid as an alternative if delivery cannot be had.

209. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

210. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments, with or without interest.

And after the passing of any such decree the Court may, on the application of the judgment-debtor and with the consent of the decree-holder, order that the amount decreed be paid by instalments on such terms as to the payment of interest, the attachment of the property of the defendant, or the taking of security from him, or otherwise, as it thinks fit:

Save as provided in this section and section 206, no decree shall be altered at the request of parties.

211. When the suit is for the recovery of possession of immovable property yielding rent or other profit, the Court may provide in the decree for the payment of rent or mesne profits in respect of such property from the institution of the suit until the delivery of possession to the party in whose favour the decree is made, or until the expiration of three years from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

Explanation.—‘Mesne profits’ of property mean those profits which the person in wrongful possession of such property actually received, or might with ordinary diligence have received, therefrom, together with interest on such profits.

212. When the suit is for the recovery of possession of immovable property and for mesne profits which have accrued on the property during a period prior to the institution of the suit, and the amount of such profits is disputed, the Court may either determine the amount by the decree itself, or may pass a decree for the property and direct an inquiry into the amount of mesne profits, and dispose of the same on further orders.

213. When the suit is for an account of any property and for its due administration under the de-

of the Court, the Court, before making the decree, shall order such accounts and inquiries to be taken and made, and give such other directions, as it thinks fit.

In the administration by the Court of the property of any person who dies after this Code comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being with respect to the estates of persons adjudged insolvent;

and all persons who in any such case would be entitled to be paid out of such property may come in under the decree for its administration, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

Applications under section 265 of the Indian Contract Act, 1872, shall be deemed to be suits within the meaning of this section.

214. When the suit is to enforce a right of pre-emption in respect of a particular sale of property, and the Court finds for the plaintiff, if the amount of purchase-money has not been paid into court, the decree shall specify a day on or before which it shall be so paid, and shall declare that on payment of such purchase-money, together with the costs (if any) decreed against him, the plaintiff shall obtain possession of the property, but that if such money and costs are not so paid, the suit shall stand dismissed with costs.

215. When the suit is for the dissolution of a partnership, the Court, before making its decree, may pass an order fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

215A. When a suit is for an account of pecuniary transactions between a principal and agent, and in all other suits not herein-before provided for, where it is necessary, in order to ascertain the amount of money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit.

216. If the defendant has set-off the amount of a debt against the claim of the plaintiff, and such set-off has been allowed, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

The decree of the Court with respect to any sum awarded to the defendant shall have the same effect, and be subject to the same rules in respect of appeal or otherwise, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

217. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

CHAPTER XVIII.

OF COSTS.

218. When disposing of any application under this Code, the Court may give to either party the costs of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

219. The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion.

220. The Court shall have full power to give and apportion costs of every application and suit in any manner it thinks fit, and the fact that the Court has no jurisdiction to try the case is no bar to the exercise of such power:

Provided that, if the Court directs that the costs of any application or suit shall not follow the event, the Court shall state its reasons in writing.

Every order relating to costs made under this Code and not forming part of a decree may be executed as if it were a decree for money.

221. The Court may direct that the costs payable to one party by another shall be set-off against a sum which is admitted or is found in the suit to be due from the former to the latter.

222. The Court may give interest on costs at any rate not exceeding six per cent. per annum, and may direct that costs, with or without interest, be paid out of, or charged upon, the subject-matter of the suit.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.

223. A decree may be executed either by the Court which passed it or by the Court to which it is sent for execution under the provisions hereinafter contained.

The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court,

(a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale of immoveable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

The Court which passed a decree may of its own motion send it for execution to any Court subordinate thereto.

The Court to which a decree is sent under this section for execution shall certify to the Court which passed it the fact of such execution, or, where the former Court fails to execute the same, the circumstances attending such failure.

If the decree has been passed in a case cognizable by a Court of Small Causes and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be, the copies and certificate respectively mentioned in clauses (a), (b) and (c) of section 224; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

If the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But, if the Court to which the decree is to be sent for execution is situate in a different district, the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

Procedure when Court desires that its own decree shall be executed by another Court.

224. The Court sending a decree for execution under section 223 shall send

(a) a copy of the decree;

(b) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted; and

(c) a copy of any order for the execution of the decree, and, if no such order has been made, a certificate to that effect.

225. The Court to which a decree is so sent shall cause such copies and certificate to be filed, without any further proof of the decree or order for execution, or of the copies thereof, or of the jurisdiction of the Court which passed it, unless the former Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

226. When such copies are so filed, the decree or order may, if the Court to which it is sent be the District Court, be executed by such Court or by any subordinate Court which it directs to execute the same.

227. If the Court to which the decree is sent for execution be a High Court, the decree shall be executed by such Court in the same manner as if it had been made by such Court in the exercise of its ordinary original civil jurisdiction.

228. The Court executing a decree sent to it under this chapter shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree, and its orders in executing such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself.

229. A decree of any Court established by the authority of the Governor-General in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court by which it was made, may be executed in manner herein provided within the jurisdiction of any Court in British India.

B.—Of Application for Execution.

230. When the holder of a decree desires to enforce it, he shall apply to the Court which passed the decree or to the officer, if any, appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court, then to such Court or to the proper officer thereof.

The Court may in its discretion refuse execution at the same time against the person and property of the judgment-debtor.

Where an application to execute a decree for the payment of money or delivery of other property has been made under this section and granted, no subsequent application to execute the same decree shall be granted after the expiration of

decree shall have any of the following legal consequences:

(a) the date of the decree sought to be enforced or of the decree (if any) on appeal affirming the same, or

(b) where the decree or any subsequent order directs any payment of money, or the delivery of any property, to be made at a certain date—the date of the default in making the payment or delivering the property in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent the Court from granting an application for execution of a decree after the expiration of the said term of twelve years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application.

Notwithstanding anything herein contained, proceedings may be taken to enforce any decree within three years after the passing of this Code, unless when the period prescribed for taking such proceedings by the law in force immediately before the passing of this Code shall have expired before the completion of the said three years.

231. If a decree has been passed jointly in favour of more persons than one, any one or more of such persons, or his or their representatives, may apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the representative in interest of the deceased.

If the Court sees sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

232. If a decree be transferred by assignment in writing, or by operation of law, from the decree-holder to any other person, the transferee may apply for its execution to the Court which passed it; and, if that Court thinks fit, the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Provided as follows:—

(a) where the decree has been transferred by assignment, notice in writing of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to such execution:

(b) where a decree for money against several persons has been transferred to one of them, it shall not be executed against the others.

233. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

234. If a judgment-debtor dies before the decree has been passed, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel the said representative to produce such accounts as it thinks fit.

235. The application for the execution of a decree shall be in writing verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars (namely)—

- (a) the number of the suit;
- (b) the names of the parties;
- (c) the date of the decree;
- (d) whether any appeal has been preferred from the decree;
- (e) whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree;
- (f) whether any and what previous applications have been made for execution of the decree and with what result;
- (g) the amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby;
- (h) the amount of costs, if any, awarded;
- (i) the name of the person against whom the enforcement of the decree is sought; and
- (j) the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

236. Whenever an application is made for the attachment of any moveable property belonging to the judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

237. Whenever an application is made for the attachment of any immovable property belonging to the judgment-debtor, it shall contain at the foot a de-

scription of the property sufficient to identify it, and also a specification of the judgment-debtor's share or interest therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

Every such description and specification shall be verified in manner hereinbefore provided for the verification of plaints.

238. If the property be land registered in the Collector's office, the application for attachment shall be accompanied by an authenticated extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for such land, and the shares of the registered proprietors.

C.—Of staying Execution.

239. The Court to which a decree has been sent for execution under this chapter shall, upon sufficient cause being shewn, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was made, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto ;

and in case the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution or discharge of such property or person pending the result of the application for such order.

240. Before passing an order under section 239 to stay execution, or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

241. No discharge under section 239 of the property or person of a judgment-debtor shall prevent it or him from being retaken in execution of the decree sent for execution.

242. Any order of the Court by which the decree was passed, or of such Court of appeal as aforesaid, in relation to the execution of such decree, shall be binding upon the Court to which the decree was sent for execution.

243. If a suit be pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court

may (if it think fit) stay execution on the decree, either absolutely or on such terms as it thinks fit, until the pending suit has been decided.

D.—Questions for Court executing Decree.

244. The following questions shall be determined by order of the Court executing a decree and not by separate suit (namely) —

(a) questions regarding the amount of any mesne profits as to which the decree has directed inquiry ;

(b) questions regarding the amount of any mesne profits or interest which the decree has made payable in respect of the subject-matter of a suit, between the date of its institution and the execution of the decree, or the expiration of three years from the date of the decree ;

(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree.

Nothing in this section shall be deemed to bar a separate suit for mesne profits accruing between the institution of the first suit and the execution of the decree therein, where such profits are not dealt with by such decree.

E.—Of the Mode of executing Decrees.

245. The Court, on receiving an application for the execution of a decree, shall ascertain whether such of the requirements of sections 235, 236, 237 and 238 as may be applicable to the case have been complied with ; and if they have not been complied with, the Court may reject the application, or may allow it to be amended then and there, or within a time fixed by the Court. If the application be not so amended, it shall be rejected.

Every amendment made under this section shall be attested by the signature of the Judge.

When the application is admitted, the Court shall enter in the register of the suit a note of the application and the date on which it was made, and shall order execution of the decree according to the nature of the application :

Provided that, in the case of a decree for money, the value of the property attached shall, as nearly as may be, correspond with the amount for which the decree has been made.

246. If cross-decrees between the same parties for the payment of money be produced to the Court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

If the two sums be equal, satisfaction shall be entered upon both decrees.

Explanation I.—The decrees contemplated by this section are decrees capable of execution at the same time and by the same Court.

Explanation II.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

Explanation III.—This section does not apply unless

the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits; and

the sums due under the decrees are definite.

Illustrations.

(a) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(b) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this section.

(c) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this section.

247. When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party; but satisfaction for the smaller sum shall be entered on the decree.

When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

248. The Court shall issue a notice to the party against whom execution is applied for, requiring him to show cause, within a period to be fixed by the Court, why the decree should not be executed against him,

(a) if more than one year has elapsed between the date of the decree and the application for its execution, or

(b) if the enforcement of the decree be applied for against the legal representative of a party to the suit in which the decree was made:

Provided that no such notice shall be necessary

in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed, or of the last order against the party against whom execution is applied for, passed on any previous application for execution, or

in consequence of the application being against the legal representative of the judgment-debtor, if upon a previous application for execution against

the same person the Court has ordered execution to issue against him.

Explanation.—In this section the phrase "the Court" means the Court by which the decree was passed, unless the decree has been sent to another Court for execution, in which case it means such other Court.

249. If the person to whom notice is issued under the last preceding section does not appear, or does not shew cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

If he offers any objection to the enforcement of the decree, the Court shall consider such objection and pass such order as it thinks fit.

250. When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court, unless it sees cause to the contrary, shall issue its warrant for the execution of the decree.

251. Such warrant shall be dated the day on which it is issued, signed by the Judge or such officer as the Court appoints in this behalf, sealed with the seal of the Court, and delivered to the proper officer to be executed.

And a day shall be specified in such warrant on or before which it must be executed, and the proper officer shall endorse thereon the day and manner in which it was executed, or, if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

252. If the decree be against a party as the legal representative of a deceased person, and the decree be for money to be paid out of the property of the deceased, it may be executed by the attachment and sale of any such property:

If no such property remains in the possession of the judgment-debtor, and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by him, in the same manner as if the decree had been against him personally.

253. Whenever a person has, before the passing of a decree in an original suit, become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant:

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

representative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

Explanation.—A certificate of heirship, or a certificate to collect debts, does not of itself constitute the person holding it the legal representative of the deceased. But when the person holding any such certificate obtains thereby property belonging to the deceased, he may be treated as a legal representative liable in respect of such property.

367. If any dispute arise as to who is the legal

Procedure in case of dispute as to representative of deceased plaintiff. representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

368. If there be more defendants than one, and

Procedure in case of death of one of several defendants, any of them die before decree and the right to sue does not survive against the surviving defendant or defendants alone,

and also in case of the death of a sole defendant,

or of sole or sole surviving defendant, or sole surviving defendant where the right to sue survives,

the plaintiff may make an application to the Court, specifying the name, description and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead.

The Court shall thereupon enter the name of such representative on the record in the place of such defendant,

and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit;

and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit:

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

When the plaintiff fails to make such application within the period prescribed therefor, the suit shall abate, unless he satisfies the Court that he had sufficient cause for not making the application within such period.

369. The marriage of a female plaintiff or de-

Suit not abated by marriage of female party. defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and, where the decree is against a female defendant, it may thereupon be executed against her alone.

If the case is one in which the husband is by law liable for the debts of his wife, the decree may,

with the permission of the Court, be executed against the husband also; and, in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

370. The bankruptcy or insolvency of a plaintiff

When plaintiff's bankruptcy or insolvency bars suit. in any suit which his assignee or the receiver appointed under section 351 might maintain for the benefit of his creditors shall not bar the suit, unless such assignee or receiver declines to continue the suit and to give security for the costs thereof within such time as the Court may order.

If the assignee or receiver neglect or refuse to continue the suit and to give

Procedure when assignee fails to continue suit or give security. such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

371. When a suit abates or is dismissed under

Effect of abatement or dismissal. this chapter, no fresh suit shall be brought on the same cause of action.

But the person claiming to be the legal repre-

Application to set aside abatement or dismissal. sentative of the deceased or bankrupt or insolvent plaintiff may apply for an order

to set aside the order for abatement or dismissal; and, if it be proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

372. In other cases of assignment, creation or

Procedure in case of assignment pending suit. devolution of any interest pending the suit, the suit may, with the leave of the Court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come either in addition to or in substitution for the person from whom it has passed, as the case may require.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. If, at any time after the institution of the

Power to allow plaintiff to withdraw with liberty to bring fresh suit. suit, the Court is satisfied on the application of the plaintiff (a) that the suit must fail by reason of some formal

defect, or (b) that there are sufficient grounds for permitting him to withdraw from the suit or to abandon part of his claim with liberty to bring a fresh suit for the subject-matter of the suit or in respect of the part so abandoned, the Court may grant such permission on such terms as to costs or otherwise as it thinks fit.

If the plaintiff withdraw from the suit, or abandon part of his claim, without such permission, he shall be liable for such costs as the Court may award, and shall be precluded from bringing a fresh suit for the same matter or in respect of the same part.

Nothing in this section shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

374. In any fresh suit instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been brought.

375. If a suit be adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the whole or any part of the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the Court shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final, so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

376. The defendant in any suit to recover a debt or damages may, at any stage of the suit, deposit in court such sum of money as he considers a satisfaction in full of the claim.

377. Notice in writing of the deposit shall be given through the Court by the defendant to the plaintiff, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the plaintiff on his application.

378. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

379. If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the Court decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff must pay the costs of the suit incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

If the plaintiff accept such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall

pass judgment accordingly, and, in directing by whom the costs of each party are to be paid, the Court shall consider which of the parties is most to blame for the litigation.

Illustrations.

(a) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(b) B sues A under the circumstances mentioned in illustration (a). On the plaint being filed, A disputes the claim. Afterwards A pays the money into court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shown that the litigation was necessary.

(c) A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

380. If, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of British India, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immoveable property within British India independent of the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by any defendant.

381. In the event of such security not being furnished within the time so fixed, the Court shall dismiss the suit unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of section 373.

382. Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of British India within the meaning of section 380.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

383. Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of persons resident with-

in the local limits of its jurisdiction; who are exempted under this Code from attending the Court, or who are from sickness or infirmity unable to attend it.

384. Such order may be made by the Court either of its own motion, or on the application, supported by affidavit or otherwise, of any party to the suit or of the witness to be examined.

385. The commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute the same.

386. Any Court may in any suit issue a commission for the examination of—

(a) any person resident beyond the local limits of its jurisdiction;

(b) persons who are about to leave such limits before the date on which they are required to be examined in Court; and

(c) civil and military officers of Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint.

The Court on issuing any commission under this section shall direct whether the commission shall be returned to itself or to any subordinate Court.

387. When any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied that his evidence is necessary, the Court may issue such commission.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

389. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit.

390. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless

(a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or

(b) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in the last preceding clause, and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

391. The provisions herebefore contained as to the execution and return of commissions shall apply to commissions issued by foreign Courts.

(a) Courts situate beyond the limits of British India and established by the authority of Her Majesty or of the Governor General in Council, or

(b) Courts situate in any part of the British Empire other than British India, or

(c) Courts of any foreign country for the time being in alliance with Her Majesty.

B.—Commissions for local Investigations.

392. In any suit or proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages, or annual nett profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report thereon to the Court:

Provided that, when the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

393. The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, signed with his name, to the Court.

The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court, or, with the permission of the Court, any of the parties to the suit, may examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

C.—Commissions to examine Accounts.

394. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

395. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

D.—Commission to make Partition.

396. In any suit in which the partition of immoveable property not paying revenue to Government appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

The Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission issues, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party, and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court; and the Court, after hearing any objections which the parties may make to the report or reports, shall either quash the same and issue a new commission, or (where the Commissioners agree in their report) pass a decree in accordance therewith.

E.—General Provisions.

397. Before issuing any commission under this Chapter, the Court may order expenses of commission to be paid into such sum (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed by the Court, paid into court by the

party at whose instance or for whose benefit the commission is issued.

398. Any Commissioner appointed under this Chapter may, unless otherwise directed by the order of appointment,

(a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;

(b) call for and examine documents and other things relevant to the subject of inquiry;

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

399. The provisions of this Code relating to the summoning, attendance and examination of witnesses, and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this Chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India.

For the purposes of this section, the Commissioner shall be deemed to be a Court of Civil Judicature.

400. Whenever a commission is issued under this chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

If the parties do not so appear the Commissioner may proceed *ex parte*.

PART III.**OF SUITS IN PARTICULAR CASES.****CHAPTER XXVI.****SUITS BY PAUPERS.**

401. Subject to the following rules, any suit may be brought by a pauper.

Explanation.—A person is a "pauper" when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing apparel and the subject-matter of the suit.

402. No suit shall be brought by a pauper to recover compensation for loss of caste, libel, slander, abusive language or assault.

403. The application for permission to sue by a pauper shall be in writing, and shall contain the particulars required by section 50 in regard to plaints in suits: a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, shall be annexed thereto; and it shall be signed and verified in the manner herein-before prescribed for the signing and verification of plaints.

404. Notwithstanding anything contained in section 36, the application shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court under section 640 or section 641, in which case the application may be presented by a duly authorized agent who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.

405. If the application be not framed or presented in the manner prescribed by sections 403 and 404, the Court shall reject it.

406. If the application be in proper form and duly presented, the Judge may, if he thinks fit, examine the petitioner, or his agent, when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

When the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken under the provisions of this Code.

407. If it appear to the Court

(a) that the applicant is not a pauper, or

(b) that he has, within the two months next before the presentation of the application, disposed of any property fraudulently or with a view to obtain the benefit of this chapter, or

(c) that his allegations do not show a right to sue in such Court, or

(d) that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter,

the Court shall reject the application.

408. If the Court sees no reason to refuse the application on any of the grounds stated in section 407, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party and the Government Pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing

any evidence which may be adduced in disproof thereof.

409. On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may cross-examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in section 407.

The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

410. If the application be granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under Chapter V, except that the plaintiff shall not be liable to any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

411. If the plaintiff succeed in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code.

412. If the plaintiff fails in the suit, or if he is dispaupered, or if the suit is dismissed under section 97 or 98, the Court shall order the plaintiff, or any person made under section 82 co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper;

and if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

413. An order of refusal made under section 409 to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by Government in opposing his application for leave to sue as a pauper.

414. The Court may, on motion by the defendant, or by the Government Pleader, of which one week's notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

Dispaupering.

- (a) if he is guilty of vexatious or improper conduct in the course of the suit ;
- (b) if it appears that his means are such that he ought not to continue to sue as a pauper, or
- (c) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

415. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism are costs in the suit.

Costs.

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council.

Suits by or against Secretary of State in Council.

417. Persons being *ex officio* or otherwise authorized to act for Government in respect of any judicial proceeding shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of Government.

Persons authorized to act for Government.

418. In suits by the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "The Secretary of State for India in Council."

Plaints in suits by Secretary of State in Council.

419. The Government Pleader in any court shall be the agent of the Government for the purpose of receiving processes against the said Secretary of State in Council issuing out of such court.

Agent for Government to receive process.

420. The Court, in fixing the day for the said Secretary of State in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

Appearance and answer by Secretary of State in Council.

421. The Court may also, in any case in which the Government Pleader is not accompanied by any person on the part of the said Secretary of State

Attendance of person able to answer questions relating to suit against Government.

in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

422. Where the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being served on him, if it appear to the Court that the summons may be most conveniently so served.

Service on public officer.

423. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel ;

and the Court upon such application may extend the time for so long as appears to be requisite.

424. No suit shall be instituted against the said Secretary of State in Council, or against a public officer in respect of an act purporting to be done by him in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff ; and the plaint must contain a statement that such notice has been so delivered or left.

425. No warrant of arrest shall be issued in such suit without the consent in writing of the District Judge.

Arrests in such suits.

426. If the Government undertakes the defence of a suit against a public officer, the Government Pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register.

427. If such application is not made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

Procedure where no such application made.

Defendant not liable to arrest before judgment.

428. In a suit against a public officer in respect of such act as aforesaid the Court shall exempt the defendant from appearing in person when he satisfies the Court that he cannot absent himself from his duty without detriment to the public service.

429. When the decree is against the said Secretary of State in Council or against a public officer in respect of such act as aforesaid, a time shall be specified in the decree within which it shall be satisfied; and, if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Execution shall not issue on any such decree unless it remains unsatisfied for the period of three months computed from the date of the report.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

430. Alien enemies residing in British India with the permission of the Governor General in Council, and alien friends, may sue in the Courts of British India as if they were subjects of Her Majesty.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland, and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

431. A foreign State may sue in the Courts of British India, provided that—

(a) it has been recognized by Her Majesty or the Governor General in Council, and

(b) the object of the suit is to enforce the private rights of the head or of the subjects of the foreign State.

The Court shall take judicial notice of the fact that a foreign State has not been recognized by Her Majesty or by the Governor General in Council.

432. Persons specially appointed by order of Government at the request of any Sovereign Prince or ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, to prosecute or defend any suit on his behalf, shall be

deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

433. Any such Prince or Chief, and any ambassador or envoy of a foreign State, may, with the consent of Government certified by the signature of one of its Secretaries (but not without such consent) be sued in any competent Court not subordinate to a District Court;

Such consent shall not be given unless—

(a) the Prince, Chief, ambassador or envoy has instituted a suit in such Court against the person desiring to sue him; or

(b) the Prince, Chief, ambassador or envoy by himself or another trades within the local limits of the jurisdiction of such Court; or

(c) the subject-matter of the suit is immovable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

No such Prince, Chief, ambassador or envoy shall be arrested under this Code; and no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy unless with consent of Government certified as aforesaid.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(a) declare that the decrees of any Civil or Revenue Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor General in Council, may be executed in British India as if they had been made by the Courts of British India, and

(b) cancel any such declaration.

So long as such declaration remains in force, the said decrees may be executed accordingly.

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

435. In suits by a Corporation, or by a Company authorized to sue and be sued in the name of an officer or of a trustee, the plaintiff may be subscribed and verified on behalf of the Corporation or Company by any director, secretary or other principal officer of the Corporation or Company, who is able to depose to the facts of the case.

436. When the suit is against a Corporation, or against a Company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served—

(a) by leaving it at the registered office (if any) of the Corporation or Company, or

(b) by sending it by post in a letter addressed to such officer or trustee at the office (or if there be more offices than one, at the principal office in British India) of the Corporation or Company, or

(c) by giving it to any director, secretary or other principal officer of the Corporation or Company;

and the Court may require the personal appearance of any director, secretary or other principal officer of the Corporation or Company who may be able to answer material questions relating to the suit.

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437. In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit. But the Court may, if it thinks fit, order them or any of them to be made such parties.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them:

Provided that executors who have not proved their testator's will, and executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

439. Unless the Court directs otherwise, the husband of a married woman, or the husband of a married administrator or executrix shall not be a party to a suit by or against her.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

440. Every suit by a minor shall be instituted in his name by an adult person, who in such suit shall be called the next friend of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

441. Every application to the Court on behalf of a minor (other than an application under section 449) shall be made by his next friend, or his guardian for the suit.

442. If a plaint be filed by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other person by whom it was presented. Notice of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

443. Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

444. Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, if the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

445. Any person being of sound mind and full age may act as next friend of a minor, provided his interest is not adverse to that of such minor, and he is not a defendant in the suit.

446. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor, as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

447. Unless otherwise ordered by the Court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor.

448. On the death or removal of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

449. If the pleader of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

450. A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, on coming of age must elect whether he will proceed with the suit or application.

451. If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

The title of the suit or application shall in such case be corrected so as to read thenceforth thus:

"A. B., late a minor, by C. D., his next friend, but now of full age."

452. If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

453. Any application under section 451 or section 452 may be made *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

454. A minor co-plaintiff on coming of age and desiring to repudiate the suit must apply to have his name struck out as co-plaintiff; and the Court, if it finds that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

Notice of the application shall be served on the next friend, as well as on the defendant; and it must be proved by affidavit that the late minor has attained his full age. The costs of all parties of such application, and of all or any proceedings theretofore had in the suit, shall be paid by such persons as the Court directs.

If the late minor be a necessary party to the suit the Court may direct him to be made a defendant.

455. If any minor on attaining majority can prove to the satisfaction of the Court that a suit instituted in his name by a next friend was unreasonable

or improper, he may, if a sole plaintiff, apply to have the suit dismissed.

Notice of the application shall be served on all the parties concerned: and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name and on behalf of the minor or by the plaintiff. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is a fit person to be so appointed.

Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian: Provided that he has no interest adverse to that of the minor.

457. A co-defendant of sound mind and of full age may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a married woman, can be so appointed.

458. If the guardian for the suit of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the Court may remove him, and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

459. If the guardian for the suit dies pending such suit, or is removed by the Court, the Court shall appoint a new guardian in his place.

460. When the enforcement of a decree is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

461. No sum of money or other thing shall be received or taken by a next friend or guardian for the suit on behalf of a minor, at any time before decree or order, unless he has first obtained the leave of the Court, and given security to its satisfaction that such money or other thing shall be duly accounted for to, and held for the benefit of, such minor.

462. No next friend or guardian for the suit shall, without the leave of the Court, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which he acts as next friend or guardian.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

463. The provisions contained in sections 440 to 462 (both inclusive) shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under Act No. XXXV of 1858, or under any other law for the time being in force.

464. Nothing in sections 442 to 462 applies to any minor or person of unsound mind, for whose person or property a guardian or manager has been appointed by the Court of Wards or by the Civil Court under any local law.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

465. When any officer or soldier actually serving the Government in a military capacity is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

The authority shall be in writing and shall be signed by the officer or soldier in the presence of (a) his commanding officer, or the next subordinate officer, if the party be himself the commanding officer, or (b) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority, which shall be filed in court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation.—In this chapter the expression 'commanding officer' means the officer in actual command for the time being of any regiment, corps, detachment or depôt to which the officer or soldier belongs.

466. Any person authorized by an officer or a soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could

do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

467. Processes served upon any person authorized by an officer or a soldier, as in section 465, or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader.

468. When an officer or a soldier is a defendant, the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him.

The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

469. If, in the execution of a decree, a warrant of arrest or other process is to be executed within the limits of a cantonment, garrison, military station or military bazar, the officer charged with the execution of such warrant or other process shall deliver the same to the commanding officer.

The commanding officer shall back the warrant or other process with his signature, and, in the case of a warrant of arrest, if the person named therein is within the limits of his command, shall cause him to be arrested and delivered to the officer so charged.

CHAPTER XXXIII.

INTERPLEADER.

470. When two or more persons claim adversely to one another the same payment or property from another person, whose only interest therein is that of a mere stakeholder and who is ready to render it to the right owner, such stakeholder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property should be made or delivered, and of obtaining indemnity for himself:

Provided that if any suit is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaintiff must, in addition to the other statements necessary for complaints, state—

(a) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder ;

(b) the claims made by the defendants severally ; and

(c) that there is no collusion between the plaintiff and any of the defendants.

472. When the thing claimed is capable of

being paid into court or placed in the custody of the Court, the plaintiff must so pay or place it before he can be entitled to any order in the suit.

Procedure at first hearing. 473. At the first hearing the Court may—

(a) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit ;

or, if it thinks that justice or convenience so require,

(b) retain all parties until the final disposal of the suit ;

and, if it finds that the admissions of the parties or other evidence enable it,

(c) adjudicate the title to the thing claimed : or else it may

(d) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court, and shall adjudicate on such claims.

474. Nothing in this chapter shall be taken to

enable agents to sue their tenants may institute in-terpleader-suits. principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(a) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(b) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader suit against A and C.

475. When the suit is properly instituted, the

Charge of plaintiff's costs. Court may provide for the plaintiff's costs by giving him a charge on the thing claimed or in some other effectual way.

476. If any of the defendants in an interplead-

Procedure where defendant is suing stakeholder. er-suit is actually suing the stakeholder in respect of the subject of such suit, the Court in which the suit against the stakeholder is pending shall, on being duly informed by the Court which passed the decree in the interpleader-suit in favour of the stakeholder, that such decree has

been passed, stay the proceedings as against him ; and his costs in the suit so stayed may be provided for in such suit ; but if, and so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

Costs.

PART IV.

PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

477. If at any stage of any suit, other than a

When plaintiff may apply that security be taken. suit for the possession of immoveable property, the plaintiff satisfies the Court by affidavit or otherwise—

that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,

(a) has absconded or left the jurisdiction of the Court, or

(b) is about to abscond or to leave the jurisdiction of the Court, or

(c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit.

478. If the Court, after examining the appli-

Order to bring up defendant to show cause why he should not give security. cant, and making such further investigation as it thinks fit, is satisfied—

that the defendant, with any such intent as aforesaid,

(a) has absconded or left the jurisdiction of the Court, or

(b) is about to abscond or to leave the jurisdiction of the Court, or

(c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under the circumstances last aforesaid,

the Court may issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance.

479. If the defendant fail to show such cause,

If defendant fail to show cause, Court may order him to make deposit or give security.

the Court shall order him either to deposit in court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit.

The surety shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

480. The surety for the appearance of the

Procedure in case of application by surety to be discharged.

On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

481. If the defendant fail to comply with any

Procedure where defendant fails to give security or find fresh security.

judgment be given against the defendant, until the execution of the decree: Provided that no person shall be imprisoned under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees:

Provided that no person shall be detained in prison under this section after he has complied with such order.

482. The provisions of section 339 as to allow-

Subsistence of defendant arrested.

arrested under this chapter.

B.—Attachment before Judgment.

483. If at any stage of any suit the plaintiff

Application before judgment for security from defendant to satisfy decree, and in default for attachment of property.

be passed against him,

(a) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(c) has quitted the jurisdiction of the Court, leaving therein property belonging to him,

the plaintiff may apply to the Court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit and, on his failing to give such security, to direct that any portion of his property within the jurisdiction of the Court shall be attached until the further order of the Court.

The application shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

484. If the Court, after examining the appli-

Court may call on defendant to furnish security or show cause.

cant and making any further investigation which it thinks fit, is satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him, the Court may require him, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the sum, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

485. If the defendant fail to show cause why he

Attachment in case not shown or security not furnished.

should not furnish security, or fail to furnish the security required, within the time fixed by the Court, the Court may order that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, shall be attached.

If the defendant show such cause or furnish the required security, and the

Withdrawal of attachment. property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

486. The attachment shall be made in the

Mode of making attachment. manner herein provided for the attachment of property in execution of a decree for money.

487. If any claim be preferred to the property

Investigation of claims to property attached before judgment.

attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

488. When an order of attachment before judg-

ment is passed, the Court Removal of attachment when security furnished or suit diminished. which passed the order shall remove the attachment.

(d) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged ;

(e) settling a scheme for its management ;
or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate General may, outside the Presidency-towns, be, with the previous sanction of the Local Government, exercised also by the Collector or by such officer as the Local Government may appoint in this behalf.

Act No. X of 1840, section two, is hereby repealed.

PART VI. OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

540. Unless when otherwise expressly provided

Appeal to lie from all original decrees, except when expressly prohibited. by this Code or by any other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

541. The appeal shall be made in the form of a memorandum in writing presented by the appellant, and shall be accompanied by a copy of the decree appealed against and (unless the Appellate Court dispenses therewith) of the judgment on which it is founded.

Form of appeal. What to accompany memorandum. Such memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative ; and such grounds shall be numbered consecutively.

542. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant :

Provided that the Court shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court or be amended then and there.

When the Court rejects under this section any memorandum, it shall record the reasons for such rejection.

When a memorandum of appeal is amended under this section, the Judge, or such officer as he appoints in this behalf, shall attest the amendment by his signature.

544. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and thereupon the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants, as the case may be.

Of staying and executing Decrees under Appeal.

545. Execution of a decree shall not be stayed by reason only of an appeal not stayed solely by having been preferred against the decree ; but the appellate Court may for sufficient cause order the execution to be stayed :

If an application be made for stay of execution of an appealable decree before the expiry of the time for appealing has expired, the Court which passed the decree may for sufficient cause order the execution to be stayed :

Provided that no order shall be made under this section unless the Court making it is satisfied—

(a) that substantial loss may result to the party applying for stay of execution unless the order is made ;

(b) that the application has been made without unreasonable delay ; and

(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

546. If an order is made for the execution of a decree against which an order for execution of appeal is pending, the Court shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Appellate Court,

or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

And when an order has been passed for the sale of immoveable property in execution of a decree for money, and an appeal is pending against such decree, the sale shall on the application of the

judgment-debtor be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the Court which passed the decree thinks fit.

547. No such security as is mentioned in

No such security to be required from Government or public officers, sections 545 and 546 shall be required from the Secretary of State for India in Council, or (when Government has undertaken the defence of the suit) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

Of Procedure in Appeal from Decrees.

548. When a memorandum of appeal is admitted, the Appellate Court

Registry of memorandum of appeal.

the date of presentation, and shall register the appeal in a book to be kept for the purpose.

Register of Appeals.

Such book shall be called the Register of Appeals.

549. The Appellate Court may at its discretion,

Appellate Court may require appellant to give security for costs.

either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both :

Provided that the Court shall demand such

When appellant resides out of British India.

security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immoveable property within British India independent of the property (if any) to which the appeal relates.

If such security be not furnished within such time as the Court orders, the Court shall reject the appeal.

550. When the memorandum of appeal is registered, the Appellate Court

Appellate Court to give notice to Court whose decree appealed against.

shall send notice of the appeal to the Court against whose decree the appeal is made.

If the appeal be from a Court the records of

Transmission of papers to Appellate Court.

which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

Either party may apply in writing to the Court

Copies of exhibits in Court whose decree appealed against.

against whose decree the appeal is made, specifying any of such papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited accordingly.

551. The Appellate Court may, if it thinks fit,

Power to confirm decision of lower Court without sending it notice.

after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the Court against whose decree the appeal is made, without sending notice of the appeal to such Court and without serving notice on the respondent or his pleader; but in such case the confirmation shall be notified to the same Court.

552. The Appellate Court, unless where it con-

Day for hearing appeal.

firms, under section 551, the decision of the lower Court, shall fix a day for hearing the appeal.

Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

553. Notice of the day so fixed shall be stuck

Publication and service of notice of day for hearing appeal.

up in the appellate court-house, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided in Chapter VI for the service on a defendant of a summons to appear and answer; and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice.

Instead of sending the notice to the Court

Appellate Court may itself cause notice to be served.

against whose decree the appeal is made, the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the rules above referred to.

554. The notice to the respondent shall declare

Contents of notice.

that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Procedure on Hearing.

555. On the day so fixed, or on any other day

Right to begin.

to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

556. If on the day so fixed, or any other day to

Dismissal of appeal for appellant's default.

which the hearing may be adjourned, the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

557. If on the day so fixed, or any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed :

Provided that no such order shall be passed, although the notice has not been served upon the respondent, if on the day fixed for hearing the appeal the respondent appears in person or by a pleader, or by a duly authorized agent.

558. If an appeal be dismissed under section 556 or section 557, the appellant may apply to the Appellate Court for the re-admission of the appeal ; and if it be proved that he was prevented by any sufficient cause from attending when the appeal was called on for hearing or from depositing the sum so required, the Court may re-admit the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

559. If it appear to the Court at the hearing that any person who was a party to the suit in the Court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court, and direct that such person be made a respondent.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal ; and if he satisfies the Court that the notice was not duly served, or that he was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

561. Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal.

Such objection shall be in the form of a memorandum, and the provisions applicable of section 541, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

562. If the Court against whose decree the appeal is made has disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties, and the decree upon such preliminary point is reversed in appeal, the appellate Court may, if it thinks fit, by order remand the case, together with a copy of the order in appeal, to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the register and proceed to investigate the suit on the merits.

The Appellate Court may, if it thinks fit, direct what issue or issues shall be tried in any case so remanded.

563. When a case is remanded with directions to take any evidence so excluded, the Court to which the case is remanded shall not take any other evidence in the case, except evidence tendered to contradict the evidence so taken.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall, after resettling the issues, if necessary, finally determine the case, notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

566. If the Court against whose decree the appeal is made has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and in such case shall direct such Court to take the additional evidence required,

and such Court shall proceed to try such issues, and shall return to the Appellate Court its finding thereon together with the evidence.

567. Such finding and evidence shall become part of the record in the suit ; and either party may, within a time to be fixed by

the Appellate Court, present a memorandum of objections to the finding.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

568. The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if

(a) the Court against whose decree the appeal is made refuses to admit evidence which ought to have been admitted, or

(b) the Appellate Court requires any document to be produced for any witness to be examined to enable it to pronounce judgment; or for any other substantial cause,

the Appellate Court may allow such evidence to be produced, or document to be received, or witness to be examined.

Whenever additional evidence is admitted by an Appellate Court, the Court shall record on its proceedings the reason for such admission.

569. Whenever additional evidence is allowed to be received, the Appellate Court may either take such evidence, or direct the Court against whose decree the appeal is made, or any other subordinate Court, to take such evidence and to send it when taken to the Appellate Court.

570. In all cases where additional evidence is directed or allowed to be taken, the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Of the Judgment in Appeal.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

572. The judgment shall be written in English; provided that if English is not the mother-tongue of the Judge, and he is not able to write an intelligible judgment in English, the judgment shall be written in his mother-tongue or in the language of the Court.

573. When the language in which the judgment is written is not the language of the Court, the judgment shall, if any party so require, be translated into such language, and the translation, after it has been ascertained to be

correct, shall be signed by the Judge or such officer as he appoints in this behalf.

574. The judgment of the Appellate Court shall state—

- (a) the points for determination;
- (b) the decision thereupon;
- (c) the reasons for the decision; and,
- (d) when the decree appealed against is reversed or varied, the relief to which the appellant is entitled,

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.

575. When the appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

If there be no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed:

Provided that if the Bench hearing the Appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who have heard the appeal, including those who first heard it.

When there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

The High Court may from time to time make rules consistent with this Code to regulate references under this section.

576. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

577. The judgment may be for confirming, or for varying or reversing the decree against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be passed in appeal, the Appellate Court may pass a decree or order accordingly.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

Of the Decree in Appeal.

579. The decree of the Appellate Court shall bear date the day on which the judgment was pronounced.

The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify clearly the relief granted or other determination of the appeal.

The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid.

The decree shall be signed and dated by the Judge or Judges who passed it:

Provided that where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

580. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Court and at their expense.

581. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the appellate Court shall be made in the register of civil suits.

582. The Appellate Court shall have, in appeals under this chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under Chapter V; and, in Chapter XXI, so far as may be, the words "plaintiff", "defendant" and "suit" shall be held to include an appellant, a respondent and an appeal, respectively, in proceedings arising out of the death, marriage or insolvency of parties to an appeal.

The provisions hereinbefore contained shall apply to appeals under this chapter so far as such provisions are applicable.

583. When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this chapter desires to obtain execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred; and such Court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed for the execution of decrees in suits.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECISIONS.

584. Unless when otherwise provided by this Code or by any other law, from all decrees passed in appeal by any Court subordinate to a High Court, an appeal shall lie to the High Court on any of the following grounds (namely)—

(a) the decision being contrary to some specified law or usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect in the procedure as prescribed by this Code or any other law, which may possibly have produced error or defect in the decision of the case upon the merits.

585. No second appeal shall lie except on the grounds mentioned in section 584.

586. No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees.

587. The provisions contained in Chapter XLI shall apply, as far as may be, to appeals under this chapter, and to the execution of decrees passed in such appeals.

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

588. An appeal shall lie from the following orders under this Code, and from no other such orders:—

(1) orders under section 20, staying proceedings in a suit;

(2) orders under section 32, striking out or adding the name of any person as plaintiff or defendant;

(3) orders under section 36 or section 66, directing that a party shall appear in person;

(4) orders under section 44, adding a cause of action;

(5) orders under section 47, excluding a cause of action;

(6) orders returning plaints for amendment or to be presented to the proper Court;

(7) orders under section 111, setting-off, or refusing to set-off, one debt against another;

(8) orders rejecting applications under section 103 (in cases open to appeal) for an order to set aside the dismissal of a suit;

(9) orders rejecting applications under section 108, or an order to set aside a decree *ex parte*;

(10) orders under sections 113, 120 and 177;

(11) orders under section 116 or section 245, rejecting, or returning for amendment, written statements or applications for execution of decrees;

(12) orders under sections 143 and 145, directing anything to be impounded;

(13) orders under section 162, for the attachment and sale of moveable property;

(14) orders under section 168 for attachment of property, and orders under section 170 for the sale of attached property;

(15) orders under section 261, as to objections to draft-conveyances or draft-endorsements;

(16) orders under section 294, the first paragraph of section 312 or section 313, for confirming, or setting aside, or refusing to set aside, a sale of immoveable property;

(17) orders in insolvency-matters, under section 351, section 352, section 353 or section 357;

(18) orders under section 366, paragraph two, section 367 or section 368;

(19) orders rejecting applications under section 370 for dismissal of a suit;

(20) orders under section 371, refusing to set aside the abatement or dismissal of a suit;

(21) orders disallowing objections, under section 372;

(22) orders under section 454, section 455 or section 458, directing a next friend or guardian for the suit to pay costs;

(23) orders in interpleader-suits under section 473, clause (a), (b) or (d), section 475 or section 476;

(24) orders under section 479, section 480, section 485, section 492, section 493, section 496, section 497, section 502 or section 503;

(25) orders under section 514, superseding an arbitration;

(26) orders under section 518, modifying an award;

(27) orders of refusal under section 558 to re-admit, or under section 560 to re-hear, an appeal;

(28) orders under section 562, remanding a case;

(29) orders under any of the provisions of this Code, imposing fines, or for the arrest or imprisonment of any person, except when such imprisonment is in execution of a decree.

The orders passed in appeals under this section shall be final.

589. An appeal from any order specified in section 588, clauses (15), (16) and (17), shall lie to the High Court.

When an appeal from any other order is allowed by this chapter, it shall lie to the Court to which an appeal would lie from the decree in the suit in

relation to which such order was made, or, when such order is passed by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

590. The procedure prescribed in Chapter XLI shall, so far as may be, apply to appeals from orders under this Code, or under any special or local law in which a different procedure is not provided.

591. Except as provided in this chapter, no appeal shall lie from any order passed by any Court in the exercise of its original or appellate jurisdiction; but if any decree be appealed against, any error, defect or irregularity in any such order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

CHAPTER XLIV.

OF PAUPER APPEALS.

592. Any person entitled under this Code or any other law to prefer an appeal, who is unable to pay the fee required for the petition of appeal, may, on presenting an application accompanied by a memorandum of appeal, be allowed to appeal as a pauper, subject to the rules contained in Chapters XXVI, XLI, XLII and XLIII, in so far as those rules are applicable:

Provided that the Court shall reject the application unless, upon a perusal thereof and of the judgment and decree against which the appeal is made, it sees reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

593. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the Appellate Court:

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court against whose decree the appeal is made, no further inquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such inquiry.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

594. In this chapter, unless there be something repugnant in the subject or context, the expression 'decree' includes also judgment and order.

595. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained,

an appeal shall lie to Her Majesty in Council—

(a) from any final decree passed on appeal by a High Court or any other Court of final appellate jurisdiction ;

(b) from any final decree passed by a High Court in the exercise of original civil jurisdiction, and

(c) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

596. In each of the cases mentioned in clauses (a) and (b) of section 595,

the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal must involve some substantial question of law.

597. Notwithstanding anything contained in section 595,

no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being ;

and no appeal shall lie to Her Majesty in Council from any decree which, under section 586, is final.

598. Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

599. Such application must ordinarily be made within six months from the date of such decree.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

600. Every petition under section 598 must state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of section 596, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

601. If such certificate be refused, the petition shall be dismissed :

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable, within thirty days from the date of the order, to the High Court to which the former Court is subordinate.

602. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,

(a) give security for the costs of the respondent, and

(b) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except

(1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being ;

(2) papers which the parties agree to exclude ;

(3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included, and

(4) such other documents as the High Court may direct to be excluded :

and when the applicant prefers to print in India the copy of the record, except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

603. When such security has been completed and deposit made to the satisfaction of the Court, the Court may

(a) declare the appeal admitted, and

(b) give notice thereof to the respondent, and shall then

(c) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and

(d) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

604. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

605. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

or further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

606. If the appellant fail to comply with such order, the proceedings shall be stayed,

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,

and in the meantime execution of the decree appealed against shall not be stayed.

607. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section 602.

608. Notwithstanding the admission of any appeal under this chapter, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs.

But the Court may, if it thinks fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court,

(a) impound any moveable property in dispute or any part thereof, or

(b) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or

(c) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or

(d) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal, as it thinks fit.

609. If, at any time during the pendency of the appeal, the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security.

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

610. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council, shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.

When any moneys expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

611. The orders made by the Court which enforces or executes the order of Her Majesty in Council, relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

612. The High Court may, from time to time, make rules consistent with this Act to regulate—

- (a) the service of notices under section 600;
- (b) the grant or refusal of certificates, under sections 601 and 602, by Courts of final appellate jurisdiction subordinate to the High Court;
- (c) the amount and nature of the security required under sections 602, 605 and 609;
- (d) the testing of such security;

(e) the estimate of the cost of transcribing the record;

(f) the preparation, examination and certifying of such transcript;

(g) the revision and authentication of translations;

(h) the preparation of indices to transcripts of records, and of lists of the papers not included therein;

(i) the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council,

and all other matters connected with the enforcement of this chapter.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

613. All rules heretofore made and published by any High Court relating to appeal to Her Majesty in Council and in force immediately before the passing of this Act, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

614. In sections 595 and 612, the expression 'High Court' shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

615. The rules and restrictions referred to in Bengal Regulation III of 1828, section IV, clause *fifth*, shall be deemed to be the rules and restrictions applicable to appeals under this Code from the decisions of the High Court of Judicature at Fort William in Bengal.

616. Nothing herein contained shall be understood—

(a) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to Her Majesty in Council, or their conduct before the said Judicial Committee.

And nothing in this chapter applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, or to appeals from orders and decrees of Prize Courts.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

617. If before or on the hearing of a suit or an appeal in which the decree is final, or if in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Court trying the suit or appeal, or executing the decree, entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

618. The Court may either stay the proceedings or proceed in the case notwithstanding such reference, and may pass a decree or order contingent upon the opinion of the High Court on the point referred;

but no execution shall be issued, property sold, or person imprisoned in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon such reference.

619. The High Court shall hear the parties to the case in which the reference is made, in person or by their respective pleaders, and shall decide the point so referred, and shall transmit a copy of its judgment, under the signature of the Registrar, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

620. Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the case.

621. When a case is referred to the High Court under this chapter, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed in the case out of which the reference arose, and make such order as it thinks fit.

622. The High Court may call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of its jurisdiction illegally or with

material irregularity ; and may pass such order in the case as the High Court thinks fit.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

623. Any person considering himself aggrieved—

Application for review of judgment.

(a) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred ;

(b) by a decree or order from which no appeal is hereby allowed ; or

(c) by a judgment on a reference from a Court of Small Causes,

and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the Court which passed the decree or made the order, or to the Court, if any, to which the business of the former Court has been transferred.

A party who is not appealing from a decree may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except when the ground of such appeal is common to the applicant and the appellant, or when, being a respondent, he can present to the Appellate Court the case on which he applies for the review.

624. Except upon the ground of the discovery of such new and important

To whom applications for review may be made.

matter or evidence as aforesaid, or of some clerical error apparent on the face of the decree, no application for a review of judgment, other than that of a High Court, shall be made to any Judge other than the Judge who delivered it.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

Form of applications for review.

626. If it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

Application when rejected.

If the Court be of opinion that the application for the review should be granted, it shall grant the same, and the Judge shall

Application when granted.

record with his own hand his reasons for such opinion :

Provido.

Provided that—

(a) no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for ; and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him, when the decree or order was passed, without strict proof of such allegation.

627. If the Judge or Judges, or any one of the Judges, who passed the decree or order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

628. If the application for a review be heard by more than one Judge and the Court be equally divided, the application shall be rejected.

Application when rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. An order of the Court for rejecting the application shall be final ; but whenever such application is admitted, the admission may be objected to on the ground that it was

Order of rejection final. Objections to admission.

(a) in contravention of the provisions of section 624,

(b) in contravention of the provisions of section 626, or

(c) after the expiration of the period of limitation prescribed therefor and without sufficient cause.

Such objection may be made at once by an appeal against the order granting the application, or may be taken in any appeal against the final decree or order made in the suit.

Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and, if it be proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court may order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

THE SECOND SCHEDULE—concluded.

Chapters and Sections of this Code extending to Provincial Courts of Small Causes—concluded.

CHAPTER	XXX.—Suits by and against Trustees, Executors and Administrators.
CHAPTER	XXXI.—Suits by and against Minors and Persons of unsound Mind.
CHAPTER	XXXII.—Suits by and against Military Men.
CHAPTER	XXXIII.—Interpleader.
CHAPTER	XXXIV.—Of Arrest and Attachment before Judgment, except as regards immoveable property.
CHAPTER	XXXVI.—Appointment of Receivers.
CHAPTER	XXXVII.—Reference to Arbitration, sections 506 to 526 (both inclusive).
CHAPTER	XXXVIII.—Of Proceedings on Agreement of Parties.
CHAPTER	XLVI.—Reference to and Revision by High Court.
CHAPTER	XLVII.—Of Review of Judgment.
CHAPTER	XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sections 649 to 652 (both inclusive).

THE THIRD SCHEDULE.

(See section 7.)

Bombay Enactments.

Bombay Regulation XXIX, 1827.
" " VII, 1830.
" " I, 1831.
" " XVI, 1831.
Act XIX of 1835.
" XIII of 1842.

THE FOURTH SCHEDULE.

(See section 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PLAINTS. PART I.

No. 1.

FOR MONEY LENT.

IN THE COURT OF _____, AT
Civil Suit No. _____.

A. B. of
against
C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, he lent the defendant _____ rupees repayable on demand [or on the _____ day of _____].
2. That the defendant has not paid the same, except _____ rupees paid on the _____ day of _____ 18____.
- [If the plaintiff claims exemption from any law of limitation, say:—
3. The plaintiff was a minor [or insane] from the _____ day of _____ till the _____ day of _____.
4. The plaintiff prays judgment for _____ rupees, with interest at _____ per cent. from the _____ day of _____ 18____.

[NOTE.—The object of stating when the debt is to be repaid is merely to fix a date for interest. If, therefore, interest is not claimed, the statement may be omitted.

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(Title.)

A. B and G. H., the above-named plaintiffs, state as follows:—

1. That on the _____ day of _____ 18____, at _____, the defendant received _____ rupees [or a cheque on the _____ Bank for _____ rupees] from one E. F. for the use of the plaintiffs.
2. That the defendant has not paid [or delivered] the same accordingly.
3. The plaintiffs pray judgment for _____ rupees, with interest at _____ per cent. from the _____ day of _____ 18____.

THE FOURTH SCHEDULE—*continued.*

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , he and *E. F.*, since deceased, delivered to the defendant [*one thousand barrels of flour, five hundred maunds of rice, or as the case may be*] for sale upon commission.
2. That on the day of 18, [*or, on some day unknown to the plaintiff, before the day of 18*], the defendant sold the said merchandise for rupees.
3. That the commission and expenses of the defendant thereon amount to rupees.
4. That on the day of 18, the plaintiff demanded from the defendant the proceeds of the said merchandise.
5. That he has not paid the same.

[*Demand of judgment.*]

No. 4.

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at annas per tola of fine silver.
2. That the plaintiff procured the said bars, to be assayed by one *E. F.*, who was paid by the defendant for such assay, and that the said *E. F.* declared each of the said bars to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant Rs. annas therefor.
3. That each of the said bars did contain only 1,200 tolas of fine silver.
4. That the defendant has not repaid the sum so overpaid.

[*Demand of judgment.*][*NOTE.*—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , [*or by the authority*] of the defendant, the plaintiff paid to one *E. F.* rupees, at the request
2. That, in consideration thereof, the defendant promised [*or became bound*] to pay the same to the plaintiff on demand [*or as the case may be*].
3. That [*on the day of 18*], the plaintiff demanded payment of the same from the defendant, but [*he has not paid the same.*]

[*Demand of judgment.*][*NOTE.*—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , *E. F.*, of , deceased, sold and delivered to the defendant [*one hundred barrels of flour, or, the goods mentioned in the schedule hereto annexed, or, sundry goods*].
2. That the defendant promised to pay rupees for the said goods on delivery [*or, on the day of some day before the plaint was filed*].
3. That he has not paid the same.
4. That the said *E. F.*, in his lifetime made his will, whereby he appointed the plaintiff executor thereof.
5. That on the day of 18, the said *E. F.* died.
6. That on the day of probate of the said will was granted to the plaintiff by the Court of .
7. The plaintiff as executor as aforesaid [*Demand of judgment*].

[*NOTE.*—If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.]

THE FOURTH SCHEDULE—*continued*.

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff sold and delivered to the defendant [sundry articles of house-furniture] but no express agreement was made as to the price.
2. That the same were reasonably worth rupees.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

[NOTE.—The law implies a promise to pay so much as the goods are reasonably worth.]

No. 8.

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff sold to the defendant [one hundred barrels of flour] and, at the request of the defendant, delivered the same to one *E. F.*
2. That the defendant promised to pay to the plaintiff rupees therefor.
3. That he has not paid the same.

[*Demand of judgment.*]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff furnished to [*Mary Jones*] the wife of [*James Jones*] deceased, at her request, sundry articles of [*food and clothing*], but no express agreement was made as to the price.
2. That the same were necessary for her.
3. That the same were reasonably worth rupees.
4. That the said *James Jones* refused to pay the same.
5. That the defendant is the executor of the last Will of the said *James Jones*.

[*Demand of judgment.*]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff sold to *E. F.*, of , deceased, [*all the crops then growing on his farm in*] .
2. That the said *E. F.* promised to pay the plaintiff rupees for the same.
3. That he did not pay the same.
4. That the defendant is administrator of the estate of the said *E. F.*

[*Demand of judgment.*]

THE FOURTH SCHEDULE—continued.

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , E. F., of , sold to the defendant [all the fruit growing in his orchard in], but no express agreement was made as to the price.
2. That the same was reasonably worth rupees.
3. That the defendant has not paid the same.
4. That on the day of the High Court of Judicature at Fort William duly adjudged the said E. F. to be a lunatic and appointed the plaintiff committee of his estate, with the usual powers for the management thereof.
5. The plaintiff as committee as aforesaid [Demand of judgment].

[Note.—When the lunatic's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 4 and 5 substitute the following:—]

4. That on the day of the Civil Court of duly adjudged the said E. F. to be of unsound mind and incapable of managing his affairs, and appointed the plaintiff Manager of his estate.
5. The plaintiff as Manager as aforesaid.

[Demand of judgment.]

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , E. F., of , agreed with the plaintiff that the plaintiff should make for him [six tables and fifty chairs], and that the said E. F. should pay for the same upon delivery thereof rupees.
2. That the plaintiff made the said goods, and on the day of 18 , offered to deliver the same to the said E. F., and has ever since been ready and willing so to do.
3. That the said E. F. has not accepted the said goods or paid for the same.
4. That on the day of 18 , the High Court of Judicature at Fort William duly adjudged the said E. F. to be a lunatic, and appointed the defendant committee of his estate.
5. The plaintiff prays judgment for rupees with interest from the day of , at the rate of per cent. per annum, to be paid out of the estate of the said E. F. in the hands of the defendant.

No. 13.

FOR DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff put up at auction sundry [articles of merchandise], subject to the condition that all goods not paid for and removed by the purchaser thereof within [ten days] after the sale, should be re-sold by auction on his account, of which condition the defendant had notice.
2. That the defendant purchased [one crate of crockery] at the said auction at the price of rupees.
3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for [ten days] thereafter, of which the defendant had notice.
4. That the defendant did not take away the said goods purchased by him, nor pay therefor, within [ten days] after the sale, nor afterwards.
5. That on the day of 18 , at , the plaintiff re-sold the said [crate of crockery], on account of the defendant, by public auction, for rupees.
6. That the expenses attendant upon such re-sale amounted to rupees.
7. That the defendant has not paid the deficiency thus arising, amounting to rupees.

[Demand of judgment.]

[Note to § 4.—Unless the seller agreed to deliver, the purchaser must fetch the goods; see Act IX of 1872, section 93.]

THE FOURTH SCHEDULE—continued.

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(Title).

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of or, a farm known as , in or, a piece of land lying, &c.]
2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, or farm, or land].
3. That he has not paid the same.

[Demand of judgment.]

[NOTE.—Where there has been no actual conveyance, say, in § 1, “sold to the defendant the house, &c., and placed him in possession of the same.”]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVEABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No. , in the town of , or one hundred bighas of land in , bounded by the East Indian railroad, and by other lands of the plaintiff] for rupees.
2. That on the day of 18 , at , the plaintiff tendered [or, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.
3. That the defendant has not paid the said sum.

[Demand of judgment.]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].
2. That from the [said day] until the day of 18 , the plaintiff served the defendant as his [clerk].
3. That the defendant has not paid the said salary.

[Demand of judgment.]

No. 17.

FOR SERVICES AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That between the day of 18 , and the day of 18 , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.
2. That the said services were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff [furnished the paper for and printed one thousand copies of a book called] for the defendant, at his request [and delivered the same to him].
2. That the defendant promised to pay rupees therefor.
3. That he has not paid the same.

[Demand of judgment.]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff built a house [known as No. , in], and furnished the materials therefor, for the defendant, at his request, but no express agreement was made as to the price to be paid for such work and materials.
2. That the said work and materials were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 20.

FOR RENT RESERVED IN A LEASE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into a contract with the plaintiff, under their hands, a copy of which is hereto annexed.
[Or state the substance of the contract.]
2. That the defendant has not paid the rent of the [month] ending on the day of 18 , amounting to rupees.

[Demand of judgment.]

Another Form.

1. That the plaintiff let to the defendant a house, No. 27, Chowringhee, for seven years to hold from the day of 18 , at rupees a year, payable quarterly.
2. That of such rent quarters are due and unpaid.

[Demand of judgment.]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant hired from the plaintiff [the house No. , street], at the rent of rupees, payable on the first day of 18 .
2. That the defendant occupied the said premises from the day of 18 to the day of 18 .
3. That the defendant has not paid rupees, being the part of said rent due on the first day of 18 .

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(Title.)

A. B., the above-named plaintiff, executor of the will of *X. Y.*, deceased, states as follows :—

1. That the defendant occupied the [house No. , street], by permission of the said *X. Y.*, from the day of 18 , until the day of 18 , and no agreement was made as to payment for the use of the said premises.
2. That the use of the said premises for the said period was reasonably worth rupees.
3. That the defendant has not paid the same.
4. The plaintiff as such executor as aforesaid prays judgment for rupees.

No. 23

FOR BOARD AND LODGING.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That from the day of 18 , until the day of 18 , the defendant occupied certain rooms in the house [No. street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessaries.
2. That, in consideration thereof, the defendant promised to pay [or That no agreement was made as to payment for such meat, drink, attendance or necessaries, but the same were reasonably worth] the sum of rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 24.

FOR FREIGHT OF GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff transported in [his barge, or otherwise] [one thousand barrels of flour, or sundry goods], from to , at the request of the defendant.
2. That the defendant promised to pay the plaintiff the sum of [one rupee per barrel] as freight thereon [or, That no agreement was made as to payment for such transportation, but such transportation was reasonably worth rupees.]
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 25.

FOR PASSAGE-MONEY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , plaintiff conveyed the defendant [in his ship, called the , from to , at his request.
2. That the defendant promised to pay the plaintiff rupees therefor. [or That no agreement was made as to the price of the said passage, but the said passage was reasonably worth rupees].
3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No 26.

ON AN AWARD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators [or, entered into an agreement, a copy of which is hereto annexed].
2. That on the day of 18 , at , the said arbitrators awarded that the defendant should [pay the plaintiff rupees].
3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—This will apply where the agreement to refer is not filed in court.]

No. 27.

ON A FOREIGN JUDGMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , in the State [or Kingdom] of , the Court of that State [or Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.
2. That the defendant has not paid the same.

[Demand of judgment.]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half-yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.
2. That afterwards, on the day of 18 , the sum of rupees for of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[Demand of judgment.]

No. 29.

PAYEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his promissory note now overdue, promised to pay to the plaintiff rupees [days] after date.
2. That he has not paid the same [except rupees, paid on the day of 18].

[Demand of judgment.]

[NOTE.—Where the note is payable after notice, for paragraphs 1 and 2 substitute:—]

1. That on the day of 18 , at , the defendant by his promissory note promised to pay to the plaintiff rupees months after notice.

THE FOURTH SCHEDULE—continued.

2. That notice was afterwards given by the plaintiff to the defendant to pay the same months after the said notice.
3. That the said time for payment has elapsed, but the defendant has not paid the same.

[Where the note is payable at a particular place, say—]

1. That on the day of 18 at , the defendant by his promissory note, now overdue, promised to pay to the plaintiff [at Messrs. A. & Co.'s, Madras] rupees months after date.
2. That the said note was duly presented for payment [at Messrs. A. & Co.'s] aforesaid, but has not been paid.

Written Statement of the Defendant.

In THE COURT, &c.

C. D., the above-named defendant, states as follows :—

1. The defendant made the note sued upon under the following circumstances: The plaintiff and defendant had for some years been in partnership as indigo-manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, and that the defendant should take over the whole of the partnership-assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.
2. The plaintiff thereupon undertook to examine the partnership-books and inquire into the state of the partnership-assets and liabilities; and he did accordingly examine the said books and make the said inquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact was that the assets of the firm were less than Rs. 50,000 and the liabilities of the firm largely exceeded the assets.
3. The misrepresentations mentioned in the second paragraph of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

No. 30.

FIRST INDORSEE AGAINST MAKER.

(Title).

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 at , the defendant, by his promissory note, now overdue, promised to pay to the order of E. F. [or to E. F. or order] rupees [days after date].
2. That the said E. F. indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment].

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. [As in the last preceding form.]
2. That the same was, by the indorsement of the said E. F. and of G. H. and I. J. [or and others] transferred to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 32.

FIRST INDORSEE AGAINST FIRST INDORSEE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That E. F., on the day of 18 at , by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.

THE FOURTH SCHEDULE—continued.

2. That the defendant indorsed the same to the plaintiff.
 3. That on the day of 18 , the same was duly presented for payment, but was not paid.

[Or state facts excusing want of presentment.]

4. That the defendant had notice thereof.
 5. That he has not paid the same.

[Demand of judgment.]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSEER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one E. F. a promissory note, now overdue, made [or purporting to have been made] by one G. H., on the day of 18 , at , to the order of the defendant, for the sum of rupees [payable days after date].
 2. That the same was, by the indorsement of the said E. F. [and others], transferred to the plaintiff. [or That the said E. F. indorsed the same to the plaintiff.]
 3, 4 and 5. [Same as 3, 4 and 5 of the last preceding form.]

[Demand of judgment.]

No. 34.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSEER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to him a promissory note, now overdue, made [or purporting to have been made] by one E. F., on the day of 18 , at , to the order of one G. H., for the sum of rupees [payable days after date], and indorsed by the said G. H. to the defendant.
 2, 3 and 4. [Same as in 3, 4 and 5 in Form No. 33.]

[Demand of judgment.]

No. 35.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSEER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a promissory note, now overdue, made [or purporting to have been made] by one E. F., on the day of 18 , at , to the order of one G. H., for the sum of rupees [payable days after date], and indorsed by the said G. H. to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.
 2, 3 and 4. [As in No. 33.]

[Demand of judgment.]

No. 36.

SUBSEQUENT INDORSEE AGAINST MAKER, AND FIRST AND SECOND INDORSEER.

IN THE COURT OF

AT

Civil Suit No. .

A. B. of
 against
 C. D. of
 E. F. of
 and
 G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, C. D., by his promissory note, now overdue, promised to pay to the order of the defendant, E. F., rupees [months after date].

THE FOURTH SCHEDULE—continued.

2. That the said *E. F.* indorsed the same to the defendant, *G. H.*, who indorsed it to the plaintiff.
3. That on the day of 18 , the same was presented [*or state facts excusing want of presentment*] to the said *C. D.* for payment, but was not paid.
4. That the said *E. F.* and *G. H.* had notice thereof.
5. That they have not paid the same.

[Demand of judgment.]

No 37.

DRAWER AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows —

1. That on the day of 18 , at , by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees [days after date, or sight, thereof].
2. That the defendant accepted the said bill [*If the bill is payable at a certain time after sight, the date of acceptance should be stated, otherwise it is not necessary*]
3. That he has not paid the same.
4. That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof

[Demand of judgment]

[NOTE —Where the bill is payable to a third party, for paragraphs 1, 2, 3, say—]

1. That on, &c., at &c., by his bill of exchange, now overdue, directed to the defendant, the plaintiff required the defendant to pay to *I. F.* or order rupees months after date.
2. That the plaintiff delivered the said bill to the said *E. F.* on .
3. That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff

o. 38.

PAYEE AGAINST ACCEPTOR.

(Title)

A. B., the above-named plaintiff states as follows —

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or purporting to have been made*] by one *F. F.* on the day of 18 , at , requiring the defendant to pay to the plaintiff rupees after sight thereof
2. That he has not paid the same

[Demand of judgment.]

No. 39.

FIRST INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows —

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or purporting to have been made*] by one *F. F.* on the day of 18 , at , requiring the defendant to pay to the order of one *G. H.* rupees after sight thereof.
2. That the said *G. H.* indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 40.

SUBSEQUENT INDORSEMENT AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [As in the last preceding form, to the end of article 1.]
2. That by the indorsement of the said G. H. [and others], the same was transferred to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his bill of exchange, directed to E. F., required the said E. F. to pay to the plaintiff rupees [days after sight.]
2. That on the day of 18 , the same was duly presented to the said E. F. for acceptance, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 42.

FIRST INDORSEMENT AGAINST FIRST INDORSEER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one E. F., on the day of 18 , at , requiring one G. H. to pay to the order of the defendant rupees [days] after sight [or after date, or at sight] thereof, [and accepted by the said G. H. on the day of 18].
2. That on the day of 18 , the same was presented to the said G. H. for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 43.

SUBSEQUENT INDORSEMENT AGAINST FIRST INDORSEER; THE INDORSEMENT BEING SPECIAL

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one E. F. a bill of exchange, now overdue, made [or purporting to have been made] by one G. H., on the day of 18 , at , requiring one I. J. to pay to the order of the defendant rupees days after sight thereof [or otherwise], and accepted by the said I. J. on the day of 18 .

[This clause may be omitted if not according to the fact.]

THE FOURTH SCHEDULE—continued.

2. That the same was, by the indorsement of the said *E. F.* [and others], transferred to the plaintiff.
3. That on the day of 18 the same was presented to the said *I. J.* for payment, and was dishonoured.
4. That the defendant had due notice thereof
5. That he has not paid the same.

[Demand of judgment.]

No. 44.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.* to pay to the order of *I. J.* rupees days after sight thereof [or otherwise], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 45.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a bill of exchange, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.* to pay to the order of one *I. J.* rupees days after sight thereof [or otherwise], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 46.

INDORSEE AGAINST DRAWER, ACCEPTOR AND INDORSER.

IN THE COURT OF

, AT

Civil Suit No. .

A. B. of
against
C. D. of
E. F. of
and
G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant *C. D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.* rupees [days after sight thereof.]

THE FOURTH SCHEDULE—continued.

2. That on the day of 18 , the said *E. F.* accepted the same.
3. That the said *G. H.* indorsed the same to the plaintiff.
4. That on the day of 18 , the same was presented to the said *E. F.* for payment, and was dishonoured.
5. That the other defendants had due notice thereof.
6. That they have not paid the same.

[Demand of judgment.]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant by his bill of exchange, drawn in Calcutta, required one *E. F.* to pay to the plaintiff in [London] pounds sterling, [sixty days] after sight thereof.
 2. That on the day of 18 , the same was presented to the said *E. F.* for acceptance, and was dishonoured, and was thereupon duly protested.
 3. That the defendant had due notice thereof.
 4. That he has not paid the same.
 5. That the value of pounds sterling, at the time of the service of notice of protest on the defendant, was rupees annas.]
- Wherefore the plaintiff demands judgment against the defendant for rupees, with [ten per centum] compensation and interest from the day of 18 .

No. 48.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , one *E. F.*, by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff rupees after date [or days after sight] thereof.
2. That on the day of 18 , the defendant accepted the said bill.
3. That he has not paid the same.

[Demand of judgment.]

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA, &c.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. The plaintiff was the owner of [or had an interest in] the ship at the time of her loss, as hereinafter mentioned.
2. That on the day of 18 , at , the defendants, in consideration of rupees to them paid [or which the plaintiff then promised to pay] executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed; [or, whereby they promised to pay to the plaintiff, within days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during her next voyage from to , whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding rupees].

THE FOURTH SCHEDULE—continued.

3. That the said ship, while proceeding on the voyage mentioned in the said policy, was on the day of 18 , totally lost by the perils of the sea [or otherwise].
4. That the plaintiff's loss thereby was rupees.
5. That on the day of 18 , he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.
6. That the defendants have not paid the said loss.

[Demand of judgment.]

No. 50.

ON CARGO, LOST BY FIRE:—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [or had an interest in] [one hundred bales of cotton] on board the ship at the time of her loss as hereinafter mentioned.
2. That on the day of 18 , at the defendants, in consideration of rupees which the plaintiff then paid [or promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed; [or, whereby they promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, of the said goods before their landing at ; or, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should not exceed per centum of the whole value of the goods].
3. That on the day of 18 , at , while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire (or, as the case may be).
- 4, 5 and 6. [As in paragraphs 4, 5 and 6 of the last preceding form.]

[Demand of judgment.]

No. 51.

ON FREIGHT:—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff had an interest in the freight to be earned by the ship on her voyage from to , at the time of her loss as hereinafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.
2. That on the day of 18 , at , the defendant, in consideration of rupees to him paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [or state its tenor, as before].
3. That the said ship, while proceeding upon the voyage mentioned in the said policy, was, on the day of 18 , totally lost by [the perils of the sea].
4. That the plaintiff has not received any freight from the said ship, nor did she earn any on the said voyage, by reason of her loss as aforesaid.
- 5 and 6. [As in Form No 49.]

[Demand of judgment.]

No. 52.

FOR A LOSS BY GENERAL AVERAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [or had an interest in] [one hundred bales of cotton] shipped on board a vessel called the Y. Z., from to , at the time of the loss hereafter mentioned.
2. That on the day of 18 , at , in consideration of rupees [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [or state its tenor, as before].

THE FOURTH SCHEDULE—*continued.*

3. That on the day of 18 , while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea, that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

4. That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of rupees.

5. That on the day of 18 , he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[*Demand of judgment.*]

No. 53.

FOR A PARTICULAR AVERAGE LOSS.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1 and 2. [*As in the last preceding form.*]

3. That on the day of 18 , while on the high seas, the sea-water broke into the said ship, and damaged the said [cotton] to the amount of rupees.

4 and 5. [*As in paragraphs 5 and 6 of the last preceding form.*]

[*Demand of judgment.*]

No. 54.

ON A FIRE-INSURANCE POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff [was the owner of, or] had an interest in a [dwelling-house, known as No. street, in the city of], at the time of its destruction [or, injury] by fire as hereinafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [to them paid], the defendants executed to the plaintiff a policy of insurance on the said [promises], a copy of which is hereto annexed [*or state its tenor*].

3. That on the day of 18 , the said [dwelling-house] was totally destroyed [*or, greatly damaged*] by fire.

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 18 , he furnished the defendant with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendants have not paid the said loss.

[*Demand of judgment.*]

No. 55.

AGAINST SURETY FOR PAYMENT OF RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one E. F. hired from the plaintiff, for the term of years, the [house No. street] at the annual rent of rupees, payable [monthly].

2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said E. F., to guarantee the punctual payment of the said rent.

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THE FOURTH SCHEDULE—continued.

3. That the rent aforesaid for the month of _____ 18 _____, amounting to _____ rupees, has not been paid.

[If, by the terms of the agreement, notice is required to be given to the surety, add :—]

4. That on the _____ day of _____ 18 _____, the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.
5. That he has not paid the same.

[Demand of judgment.]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18 _____, at _____, the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.
[Or, That on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of _____ rupees then paid, and of the further sum of [ten thousand] rupees payable as hereinafter mentioned, he would, on the day of _____ 18 _____, at _____, execute to the plaintiff a sufficient conveyance of [the house No. _____, street, in the city of _____, free from all incumbrances; and the plaintiff agreed to pay [ten thousand] rupees for the same on delivery thereof].
2. That on the _____ day of _____ 18 _____, the plaintiff demanded the conveyance of the said property from the defendant and tendered _____ rupees to the defendant [or, That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.]
3. That the defendant has not executed any conveyance of the said property to the plaintiff [or, That there is a mortgage upon the said property, made by _____ to _____, for _____ rupees, registered in the office of _____, on the _____ day of _____ 18 _____, and still unsatisfied, or any other defect of title].
4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.
5. The plaintiff prays judgment for _____ rupees compensation.

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18 _____, at _____, the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.
[Or, That on the _____ day of _____ 18 _____, at _____, the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant and that the defendant should purchase from the plaintiff forty bighás of land in the village of _____ for _____ rupees.]
2. That on the _____ day of _____ 18 _____, at _____, the plaintiff, being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [or, was ready and willing, and offered, to convey the same to the defendant by a sufficient instrument,] on the payment by the defendant of the said sum.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That by an agreement dated the _____ day of _____ 18 _____, it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of _____ rupees, upon the terms and conditions following (that is to say)—
(a) That the defendant should pay the plaintiff a deposit of _____ rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the _____ day of _____ 18 _____, on which day the said purchase should be completed.
- (b) That the plaintiff should deduce and make a good title to the said premises on or before the _____ day of _____ 18 _____, and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.
2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.
3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[Demand of judgment.]

THE FOURTH SCHEDULE—*continued.*

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the day of 18], and that the plaintiff should pay therefor rupees on delivery.
2. That on the [said] day the plaintiff was ready and willing, and offered to pay the defendant the said sum upon delivery of the said goods.
3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[Demand of judgment.]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, or in the capacity of foreman, or as the case may be], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services rupees [monthly].
2. That on the day of 18 , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.
3. That on the day of 18 , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[Demand of judgment.]

No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [As in last preceding Form.]
2. That on the day of 18 , at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.
3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[Demand of judgment.]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an [annual] compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year].
2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 18 , offered so to do].
3. That the defendant [entered upon] the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 18 , he refused to serve the plaintiff as aforesaid.

(Demand of judgment.)

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed.

[Or state the tenor of the contract.]

- [2. That the plaintiff duly performed all the conditions of the said agreement on his part.]

THE FOURTH SCHEDULE—*continued.*

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[Demand of judgment.]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed.

[Or state the tenor of the contract.]

2. That after the making of the said agreement the plaintiff received the said [apprentice] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 18 , the said [apprentice] wilfully absented himself from the service of the plaintiff, and continues so to do.

(Demand of judgment.)

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement with the plaintiff and his [father], E. F., under their hands and seals, a copy of which is hereto annexed.

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not instructed the plaintiff in the business of [or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment].

[Demand of judgment.]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff employed one E. F. as a clerk.

2. That on the day of 18 , at , the defendant agreed with the plaintiff, that if the said E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

[Or, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of rupees, conditioned that if the said E. F. should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void but not otherwise.]

[Or, 2. That at the same time and place, the defendant executed to the plaintiff a bond, a copy of which is hereto annexed.]

3. That between the day of 18 , and the day of 18 , the said E. F. received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[Demand of judgment.]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by an instrument in writing, let to the plaintiff [the house No. , street], for the term of years, contracting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the day of during the said term, one E. F., who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of G. H. and I. J. by such removal].

[Demand of judgment.]

* The form given in Act XIX of 1850 requires the seal of the father or guardian.

THE FOURTH SCHEDULE—continued.

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him rupees therefor.

2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which could otherwise have accrued to him while the engine was under repair.

[Demand of judgment.]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, being partners in trade under the firm of *A. B. & C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership-property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. That the plaintiff duly performed all the conditions of the said agreement on his part.

3. That on the day of 18 , [a judgment was recovered against the plaintiff and defendant by one *E. F.* in the High Court of Judicature at , upon a debt due from the said firm to the said *E. F.*, and on the day of 18 ,] the plaintiff paid rupees [in satisfaction of the same].

4. That the defendant has not paid the same to the plaintiff.

[Demand of judgment.]

No. 70.

BY SHIPOWNER AGAINST FREIGHTOR FOR NOT LOADING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

[Or, 1. That on , at , the plaintiff and defendant agreed by charter-party that the defendant should deliver to the plaintiff's ship at on the day of 18 , five hundred tons of merchandise, which she should carry to , and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage, if required, at rupees per day.]

2. That at the time fixed by the said agreement the plaintiff was ready and willing, and offered, to receive [the said merchandise, or, the merchandise mentioned in the said agreement] from the defendant.

3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant entered upon certain land of the plaintiff, known as [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[Demand of judgment.]

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant entered a dwelling-house of the plaintiff called , and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 73.

FOR TRESPASS ON MOVEABLES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street [or, seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, or as the case may be, and carried away the same and disposed of them to his own use];
or, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.
2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [otherwise, state the injury according to the facts].

[Demand of judgment.]

No. 74.

FOR THE CONVERSION OF MOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff was in possession of certain goods described in the schedule hereto annexed [or, of one thousand barrels of flour].
2. That on that day, at , the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[Demand of judgment.]

The schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, in consideration of the payment to him of rupees [or, rupees per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour], and to deliver the same to the plaintiff on payment of the said sum.
2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].
3. That on the day of 18 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [or the full amount of storage due thereon], but the defendant refused to deliver the same.
4. That the plaintiff was thereby prevented from selling the said goods to *E. F.*, and the same are lost to the plaintiff.

[Demand of judgment.]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].
2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.
3. That the said representations were false [or, state the particular falsehoods], and were then known by the defendant to be so.
4. That the defendant has not paid for the said goods. [Or, if the goods were not delivered, That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.]

[Demand of judgment.]

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant represented to the plaintiff that one *E. F.* was solvent and in good credit, and worth rupees over all his liabilities [or, that *E. F.* then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].
2. That the plaintiff was thereby induced to sell to the said *E. F.* [rice] of the value of rupees [on month's credit].

THE FOURTH SCHEDULE—continued.

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [*or*, to deceive and injure the plaintiff].
4. That the said *E. K.* [did not pay for the said goods at the expiration of the credit aforesaid, *or*] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[Demand of judgment.]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called _____ and situate in _____, and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.
2. That on the _____ day of _____ 18____, the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.
3. That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[Demand of judgment.]

No. 79.

FOR CARRYING ON A NOXIOUS MANUFACTURE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called _____ situate in _____.
2. That ever since the _____ day of _____ 18____, the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.
3. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.
4. That by reason of the premises, the plaintiff was unable to depasture the said lands with cattle and sheep as he otherwise might have done, and was obliged to remove his cattle, sheep and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[Demand of judgment.]

No. 80.

FOR OBSTRUCTING A WAY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of [a house in the village of _____].
2. That he was entitled to a right of way from the said [house] over a certain field to a public highway and back again from the said highway over the said field to the said house, for himself and his servants [with vehicles, *or*, on foot] at all times of the year.
3. That on the _____ day of _____ 18____, defendant wrongfully obstructed the said way, so that the plaintiff could not pass [with vehicles, *or*, on foot, *or*, in any manner] along the said way [and has ever since wrongfully obstructed the same].
4. [State special damage, if any.]

[Demand of judgment.]

Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from _____ to _____ so as to obstruct it.
2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [*or*, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[Demand of judgment.]

No. 81.

FOR DIVERTING A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream] known as the _____, in the village of _____, district of _____.

THE FOURTH SCHEDULE—continued.

2. That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3. That on the day of 18 , the defendant, by cutting the bank of the said stream, wrongfully diverted the water thereof, so that less water ran into the plaintiff's mill.

4. That by reason thereof, the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[Demand of judgment.]

No. 82.

FOR OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(Title.)

A.B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, &c. and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2. That on the day of the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by wrongfully obstructing and diverting the said stream.

[Demand of judgment.]

No. 83.

FOR WASTE BY A LESSEE.

(Title.)

A.B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant hired from him [the house No. street] for the term of .

2. That the defendant occupied the same under such hiring.

3. That during the period of such occupation, the defendant greatly injured the premises [defaced the walls, tore up the floors, and broke down the doors; or otherwise specify the injuries as far as possible]. The plaintiff prays judgment for rupees compensation.

No. 84.

FOR ASSAULT AND BATTERY.

(Title.)

A.B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant assaulted and beat him
The plaintiff prays judgment for rupees compensation.

No. 85.

FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted and beat him until he became insensible.

2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay rupees for medical attendance, and has been ever since disabled [from using his right arm]. [Or otherwise state the damage, as the case may be.]

[Demand of judgment.]

No. 86.

FOR ASSAULT AND FALSE IMPRISONMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted the plaintiff and imprisoned him for days [or hours]; [state special damage, if any, thus:—]

2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment [or otherwise, as the case may be.]

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 87.

FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendants were common carriers of passengers by railway between and .
2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.
3. That while he was such passenger, at [or, near the station of ; or, between the stations of and], a collision occurred on the said railway, caused by the negligence and unskillfulness of the defendant's servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., and state the special damage, if any, as], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as [a salesman].

[Demand of judgment.]

[Or thus:— 2. That on that day the defendants by their servants so negligently and unskillfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, &c., as in § 3.]

No. 88.

FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is a shoemaker, carrying on business at . The defendant is a merchant of .
2. On the [23rd May, 1875], the plaintiff was walking eastward along Chowringhee, in the City of Calcutta, at about 3 o'clock in the afternoon. He was obliged to cross Harrington Street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's, drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly and without any warning turned at a rapid and dangerous pace out of Harrington Street into Chowringhee. The pole of the carriage struck the plaintiff and knocked him down, and he was much trampled by the horses.
3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages.

(Title.)

Written Statement of Defendant.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. E. F. and G. H.] of Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said [Messrs. E. F. and G. H.]
2. The defendant does not admit that the said carriage was turned out of Harrington Street either negligently, suddenly, or without warning, or at a rapid or dangerous pace.
3. The defendant says, that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.
4. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

FOR LIBEL; THE WORDS BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant published in a newspaper, called the [or, in a letter addressed to E. F.], the following words concerning the plaintiff:—

[Set forth the words used.]

2. That the said publication was false and malicious.

[Demand of judgment.]

NOTE.—If the libel was in a language not the language of the Court, set out the libel *verbatim* in the foreign language in which it was published, and then proceed thus:—“Which said words, being translated into the language, have the meaning and effect following and were so understood by the persons to whom they were so published, that is to say [here set out a literal translation of the libel in the language of the Court.]”

THE FOURTH SCHEDULE—continued.

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff [is, and] was, on and before the day of 18 , a merchant doing business in the city of .
2. That on the day of 18 , at , the defendant published in a newspaper, called the [or, in a letter addressed to *E. F.*, or otherwise how published], the following words concerning the plaintiff:—
[“*A. B.* of this city has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address.”]
3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].
4. That the said publication was false and malicious.

[Demand of judgment.]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously spoke, in the hearing of *E. F.* [or, sundry persons], the following words concerning the plaintiff: [“He is a thief”].
2. That, in consequence of the said words, the plaintiff lost his situation as in the employ of .

[Demand of judgment.]

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously said to one *E. F.* concerning the plaintiff: [“He is a young man of remarkably easy conscience.”]
2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.
3. That in consequence of the said words [the said *E. F.* refused to employ the plaintiff as a clerk].

[Demand of judgment.]

No. 93.

FOR MALICIOUS PROSECUTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant obtained a warrant of arrest from [a magistrate of the said city, or, as the case may be] on a charge of , and the plaintiff was arrested thereon, and imprisoned for hours, and gave bail in the sum of rupees to obtain his release.
2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.
3. That on the day of 18 , the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.
4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; or, that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one *E. F.*, or, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[Demand of judgment.]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That *X. F.* was the absolute owner [of the estate, or, the share of the estate, called , situate in the district of , the Government-revenue of which is rupees and the estimated value rupees, or, of the house No. , street in the town of Calcutta, the estimated value of which is rupees].

THE FOURTH SCHEDULE—continued.

2. That on the day of 18 , Z. illegally dispossessed the said X. Y. of the said estate [or share or house].
3. That the said X. Y. has since died intestate, leaving the plaintiff, the said A. B., his heir him surviving.
4. That the defendant withholds the possession of the estate [or share or house] from the plaintiff.
- The plaintiff prays judgment:
- (1) for the possession of the said premises;
- (2) for rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows:—

1. On the day of , the plaintiff, by an instrument in writing, let to the defendant a house and premises [No. 52, Russell Street, in the] for a term of five years from the day of , at the monthly rent of 300 rupees.
2. By the said instrument the defendant covenanted to keep the said house and premises in good and tenantable repair.
3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.
4. On the day of 18 , a month's rent became due, and on the day of 18 , both of 18 , another month's rent became due; on the day of 18 , both had been in arrear for twenty-one days, and both are still due.
5. On the same day of 18 , the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims
- (1) possession of the said house and premises;
- (2) rupees for arrears of rent;
- (3) rupees compensation for the defendant's breach of his covenant to repair;
- (4) rupees for the occupation of the house and premises from the day of 18 , to the day of recovering possession.

No. 95.

BY THE TENANT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That one E. F. is the absolute owner of [a piece of land in the town of Calcutta], the estimated value of which is rupees , bounded as follows:
2. That on the day of 18 , the said E. F. let the said premises to the plaintiff for years, from .
3. That the defendant withholds the possession thereof from the plaintiff.

[Demand of judgment.]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [or was possessed of] one hundred barrels of flour, the estimated value of which is rupees.
2. That on that day, at , the defendant took the same.
- The plaintiff prays judgment:
- (1) for the possession of the said goods, or for rupees in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [or, state facts showing a right to the possession] the goods mentioned in the schedule hereto annexed [or describe the goods], the estimated value of which is rupees.
2. That from that day until the commencement of this suit, the defendant has detained the same from the plaintiff.
3. That before the commencement of this suit, to wit, on the day of 18 , the plaintiff demanded the same from the defendant, but he refused to deliver them.
- The plaintiff prays judgment:
- (1) for the possession of the said goods, or for rupees, in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

The schedule.

THE FOURTH SCHEDULE—continued.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant [*C. D.*], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth rupees over all his liabilities].
2. That the plaintiff was thereby induced to sell and deliver to the said *C. D.* [one hundred boxes of tea], the estimated value of which is rupees.
3. That the said representations were false, and were then known by the said *C. D.* to be so. [Or, That at the time of making the said representations, the said *C. D.* was insolvent, and knew himself to be so.]
4. That the said *C. D.* afterwards transferred the said goods to the defendant *E. F.* without consideration [or who had notice of the falsity of the representation].

The plaintiff prays judgment:

- (1) for the possession of the said goods, or for rupees, in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained [ten bighás].
2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.
3. That on the day of 18 , the plaintiff paid the defendant rupees as part of such purchase-money.
4. That the said piece of ground contained in fact only [five bighás].

The plaintiff prays judgment:

- (1) for rupees, with interest from the day of 18 ;
- (2) that the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is the absolute owner of [*describe the property*].
2. That the defendant is in possession of the same under a lease from the plaintiff.
3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment, that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[*Pecuniary compensation might also be prayed.*]

No. 101.

FOR ABATEMENT OF A NUISANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. street, Calcutta].
2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].
3. That on the day of 18 , the defendant erected upon his said plot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].
4. That [the plaintiff] has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].

The plaintiff prays judgment, that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—*As in Form No. 81.*

The plaintiff prays judgment, that the defendant be restrained by injunction from diverting the water as aforesaid.

THE FOURTH SCHEDULE—continued.

No. 103.

FOR RESTORATION OF MOVEABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather, which was executed by an eminent painter], and of which no duplicate exists [or, state any facts showing that the property is of a kind that cannot be replaced by money].

2. That on the _____ day of _____ 18____, he deposited the same for safe keeping with the defendant.

3. That on the _____ day of _____ 18____, he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the [painting];

The plaintiff prays judgment:

- (1) that the defendant be restrained by injunction from disposing of, injuring or concealing the said [painting];
- (2) that he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That before the date of the claims hereinafter mentioned, one *G. H.* deposited with the plaintiff [describe the property] for [safe keeping].

2. That the defendant, *C. D.*, claims the same [under an alleged assignment thereof to him from the said *G. H.*]

3. That the defendant, *E. F.*, also claims the same [under an order of the said *G. H.* transferring the same to him.]

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

- (1) that the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;
- (2) that they be required to interplead together concerning their claims to the said property;
- [(3) that some person be authorized to receive the said property pending such litigation;]
- (4) that upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. *E. F.*, late of _____, was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of _____ [here insert nature of debt and security, if any].

2. The said *E. F.* made his will, dated the _____ day of _____, and thereof appointed *C. D.* executor [or, devised his estate in trust, &c., or, died intestate, as the case may be].

3. The said will was proved by the said *C. D.* [or, Letters of administration were granted, &c.]

4. The defendant has possessed himself of the moveable [and immoveable, or, the proceeds of the immoveable] property of the said *E. F.*, and has not paid the plaintiff his said debt.

5. The said *E. F.* died on or about the _____ day of _____.

6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said *E. F.*, deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEE.

(Title.)

[Alter Form No. 105 thus:—]

[Omit paragraph 1 and commence paragraph 2] *E. F.*, late of _____, duly made his last will, dated the _____ day of _____, and thereof appointed *C. D.* executor, and by such will bequeathed to the plaintiff [here state the specific legacy.]

For paragraph 1 substitute—

The defendant is in possession of the moveable property of the said *E. F.*, and, amongst other things, of the said [here name the subject of the specific bequest.]

For the commencement of paragraph 6 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said [here name the subject of the specific bequest] or that, &c.

THE FOURTH SCHEDULE—continued.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEE.

(Title.)

[Alter Form No. 105 thus:—]

Omit paragraph 1 and substitute for paragraph 2] *E. F.*, late of _____, duly made his last will, dated the _____ day of _____, and thereof appointed *C. D.* executor, and by such will bequeathed to the plaintiff a legacy of _____ rupees.
In paragraph 4. substitute "legacy" for "debt."

Another Form.

Between *E. F.* ... Plaintiff,
and
G. H. ... Defendant.

E. F., the above-named plaintiff, states as follows:—

1. *A. B.* of *K* in the _____ duly made his last will, dated the [first day of March, 1873], whereby he appointed the defendant and *M. N.* [who died in the testator's life-time] executors thereof, and bequeathed his property, whether moveable or immoveable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immoveable property for the person who would be the testator's heir-at-law, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the [first day of July, 1878], and his will was proved by the defendant on the [fourth day of October, 1878]. The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immoveable property; the defendant entered into the receipt of the rents of the immoveable property and got in the moveable property; he has sold some part of the immoveable property.

The plaintiff claims—

- (1) to have the moveable and immoveable property of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken;
- (2) such further or other relief as the nature of the case may require.

Between *E. F.* ... Plaintiff,
and
G. H. ... Defendant.

Written Statement of Defendant.

1. *A. B.*'s will contained a charge of debts; he died insolvent; he was entitled at his death to some immoveable property which the defendant sold, and which produced the nett sum of rupees _____, and the testator had some moveable property which the defendant got in, and which produced the nett sum of _____ rupees.

2. The defendant applied the whole of the said sums and the sum of rupees _____ which the defendant received from rents of the immoveable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the [tenth day of January, 1875], and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.

4. The defendant subjoins that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

IN THE COURT OF _____

, AT _____

Civil Suit, No. _____

A. B. of _____

against _____

C. D. of _____
of the beneficiaries]

the beneficiary [or, one
... Defendant.

A. B., the above-named plaintiff, states as follows:—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the _____ day of _____ made upon the marriage of *E. F.* and *G. H.*, the father and mother of the defendant [or, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*]

2. The said *A. B.* has taken upon himself the burden of the said trust, and is in possession of [or, of the proceeds of] the moveable and immoveable property conveyed [or assigned] by the before-mentioned deed.

3. The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.

4. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, or of part of the said, immoveable property, or moveable, or the proceeds of the sale of, or of part of, the said moveable, property, or the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the Court may direct, or that the said *C. D.* may show good cause to the contrary.

[N. B.—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, on the plaint by a legatee.]

No. 109.

FORECLOSURE OR SALE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. By a mortgage-deed dated the _____ day of _____ 18____, a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed by the defendant to him

THE FOURTH SCHEDULE—*continued.*

the plaintiff, his heirs [or executors, administrators,] and assigns, for securing the principal sum of Rs. together with interest thereon at the rate of Rs. per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of Rs. for principal and interest on the said mortgage.

3. The plaintiff prays (a) that the Court will order the defendant to pay him the said sum of Rs. with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the right to redeem the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (b) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (c) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (d) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

Title.

[Alter Form No. 109 thus :—]

Transpose parties and also the facts in paragraph 1.

For paragraph 2, substitute—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3, substitute—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey the same to him upon payment of the said sum of Rs. and interest, with such costs (if any), as the Court may order, upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

No. 111.

SPECIFIC PERFORMANCE. (No. 1.)

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. By an agreement dated the day of and signed by the above-named defendant, C. D., he the said C. D. contracted to buy of [or sell to] him certain immoveable property therein described and referred to, for the sum of rupees.

2. He has applied to the said C. D. specifically to perform the said agreement on his part, but he has not done so.

3. The said A. B. has been and still is ready and willing specifically to perform the agreement on his part of which the said C. D. has had notice.

4. The plaintiff prays that the Court will order the said C. D. specifically to perform the said agreement and to do all acts necessary to put the said A. B. in full possession of the said property [or to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[N.B.—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled—such as that the plaintiff signed it by mistake, under duress, or by the fraud of the defendant—and alter the prayer according to the relief sought.]

No. 112.

SPECIFIC PERFORMANCE. (No. 2.)

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18, the defendant was absolutely entitled to certain immoveable property described in the agreement hereto annexed.

2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. That on the day of 18, the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

4. That on the day of 18, the plaintiff again demanded such conveyance. [Or, That the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment :

(1) that the defendant execute to the plaintiff a sufficient conveyance of the said property [following the terms of the agreement];

(2) for rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. He and the said C. D., the defendant, have been for the space of years [or months] last past carrying on business together at within the jurisdiction of this Court, under cer-

THE FOURTH SCHEDULE—continued.

tain articles of partnership in writing, signed by them respectively, [or, under a certain deed sealed and executed by them respectively, or, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [or deed, or agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership-trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid, out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [or deed, or agreement], or that, if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by _____ of _____, pleader
for the plaintiff, [or by _____].

[N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution: but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, section 58.]

The plaintiff's claim is	rs. for money lent [and interest].	Money lent.
The plaintiff's claim is	rs., whereof _____ rs. is for the price of goods sold, and	Several demands.
rs. for money lent, and	rs. for interest.	Rent.
The plaintiff's claim is	rs. for arrears of rent.	Salary, &c.
The plaintiff's claim is	rs. for arrears of salary as a clerk [or, as the case may be].	Interest.
The plaintiff's claim is	rs. for interest upon money lent.	General average.
The plaintiff's claim is	rs. for a general average contribution.	Freight, &c.
The plaintiff's claim is	rs. for freight and demurrage.	Banker's balance.
The plaintiff's claim is	rs. for money deposited with the defendant as a banker.	Fees, &c., as pleader.
The plaintiff's claim is	rs. for fees for work done [and _____ rs. money expended] as a	Commission.
pleader.	rs. for commission earned as [state character—as auctioneer, cotton-broker,	
&c]. The plaintiff's claim is	rs. for medical attendances.	Medical attendance,
The plaintiff's claim is	rs. for a return of premiums paid upon policies of insurance.	Return of premium.
The plaintiff's claim is	rs. for the warehousing of goods.	Warehouse-rent.
The plaintiff's claim is	rs. for the carriage of goods by railway.	Carriage of goods.
The plaintiff's claim is	rs. for the use and occupation of a house.	Use and occupation of house.
The plaintiff's claim is	rs. for the hire of [furniture].	Hire of goods.
The plaintiff's claim is	rs. for work done as a [surveyor].	Work done.
The plaintiff's claim is	rs. for board and lodging.	Board and lodging.
The plaintiff's claim is	rs. for the [board, lodging and] tuition of X. Y.	Schooling.
The plaintiff's claim is	rs. for money received by the defendant as pleader [or factor, or collector, or	Money received.
of the plaintiff.	rs. for fees received by the defendant under colour of the office of	Fees of office.
The plaintiff's claim is	rs. for a return of money overcharged for the carriage of goods by	Money over-paid.
railway.	rs. for a return of fees overcharged by the defendant as	
The plaintiff's claim is	rs. for a return of money deposited with the defendant as stake-holder.	Return of money by stake-holder.
The plaintiff's claim is	rs. for money entrusted to the defendant as stake-holder, and become pay-	Money won from stake-holder.
able to plaintiff.	rs. for a return of money entrusted to the defendant as agent of the	Money entrusted to agent.
The plaintiff's claim is	rs. for a return of money obtained from the plaintiff by fraud.	Money obtained by fraud.
The plaintiff's claim is	rs. for a return of money paid to the defendant by mistake.	Money paid by mistake.
The plaintiff's claim is	rs. for a return of money paid to the defendant [work to be done, or, work	Money paid for consideration which has failed.
left undone; or, a bill to be taken up, or, a bill not taken up; or, &c.]	rs. for a return of money paid as a deposit upon shares to be allotted.	
The plaintiff's claim is	rs. for money paid for the defendant as his surety.	Money paid by surety for defendant.
The plaintiff's claim is	rs. for money paid for rent due by the defendant.	Rent paid.
The plaintiff's claim is	rs. upon a bill of exchange accepted [or indorsed] for the defendant's accom-	Money paid on accommodation-bill.
modation.	rs. for a contribution in respect of money paid by the plaintiff as surety.	Contribution by surety.
The plaintiff's claim is	rs. for a contribution in respect of a joint debt of the plaintiff and the de-	By co-debtor.
fendant, paid by the plaintiff.	rs. for money paid for calls upon shares, against which the defendant was	Money paid for calls.
The plaintiff's claim is	bound to indemnify the plaintiff.	

